

104
**THE CUBAN LIBERTY AND DEMOCRATIC
SOLIDARITY ACT OF 1995**

Y 4. IN 8/16:C 89/11

The Cuban Liberty and Democratic So...

MARKUP
BEFORE THE
**COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES**
ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

H.R. 927

JUNE 30 AND JULY 11, 1995

Printed for the use of the Committee on International Relations



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MARKUP OF H.R. 927, THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT OF 1995

FRIDAY, JUNE 30, 1995

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The committee met, pursuant to call, at 11:26 a.m., in room 2172, Rayburn House Office Building, Hon. Benjamin A. Gilman (chairman) presiding.

Chairman GILMAN. The committee will come to order.

The Committee on International Relations meets in open session to consider H.R. 927, the Cuban Liberty and Democratic Solidarity Act of 1995. This bill has been considered in the Subcommittee on the Western Hemisphere. It was reported out of the subcommittee on April 5 by a vote of three ayes, no nays. The committee will have before it an amendment in the nature of a substitute by Chairman Burton which will be open to amendment at any point. The clerk will report the title of the bill.

Would the members please take their seats.

Ms. BLOOMER. H.R. 927, to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

Chairman GILMAN. The clerk will read the bill.

Ms. BLOOMER. To seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government—

Mr. BURTON. Mr. Chairman.

Chairman GILMAN. Mr. Burton is recognized.

Mr. BURTON. I ask unanimous consent the bill be considered as read.

Chairman GILMAN. Without objection, so ordered.

[H.R. 927 appears in the appendix.]

Mr. HAMILTON. Mr. Chairman.

Chairman GILMAN. Are you requesting recognition?

Mr. HAMILTON. I just want to lay some ground rules, Mr. Chairman, and I think these matters have been worked out with you, but I would like to proceed with it for just a moment, and I appreciate the gentleman from Indiana yielding.

Chairman GILMAN. The gentleman is recognized.

Mr. HAMILTON. As you know, H.R. 927 has been referred to three other committees of the House—Banking, Judiciary and Ways and Means. The substitute that is being offered by my friend, Mr. Burton from Indiana, changes most of the sections which cause this bill

to be referred to other committees, especially section 104, section 109, and portions of title III and all of title IV. All of these provisions fall outside of the jurisdiction of this committee.

Because of the changes made to these provisions, I am informed by the Parliamentarians that the substitute to be offered by Mr. Burton could be or would be subject to a point of order on the ground that it violates Rule 10 of the House.

I think it is important to have a substantive discussion about the issues raised by this bill, but I believe that in order to do so we have to reach an agreement that all amendments will be treated equally and that further amendments will not be excluded on grounds that it also applies to the substitute.

Thus, I propose a unanimous consent agreement that the substitute amendment offered by the gentleman from Indiana, Mr. Burton, and any amendments offered to the substitute which address issues outside the jurisdiction of the Committee on International Relations but which the substitute modifies from the original text of H.R. 927 not be subject to points of order under Rule 10 of the House.

Chairman GILMAN. I thank the gentleman for the suggestion. The chair is inclined to agree with the proposal made by the gentleman from Indiana.

Is there objection to the unanimous consent request? If not, so ordered.

Mr. HAMILTON. I thank the gentleman from Indiana.

Chairman GILMAN. The gentleman from Indiana is recognized.

Mr. BURTON. Mr. Chairman, each member has before them a summary of the bill which they can use to follow the discussion, as well as a complete copy of the bill.

Chairman GILMAN. Does the gentleman have an amendment to offer?

Mr. BURTON. I do, in the nature of a substitute, Mr. Chairman.

Chairman GILMAN. The clerk will report the amendment and the nature of the substitute.

Ms. BLOOMER. Amendment in the nature of a substitute offered by Mr. Burton. Strike all after the enacting clause and insert the following: "Section 1. Short title; table of contents. (a) Short Title"——

Chairman GILMAN. Without objection, the amendment in the nature of a substitute is considered as original text for the purpose of amendment, is considered as having been read, and is now open for amendment at any point.

[Mr. Burton's amendment in the nature of a substitute appears in the appendix.]

Mr. MENENDEZ. Mr. Chairman.

Chairman GILMAN. The gentleman from Indiana is recognized for 5 minutes.

Mr. MENENDEZ. Mr. Chairman, a procedural point.

Chairman GILMAN. Yes. The gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, are you permitting any opening statements on this? I know it is subject to amendment but——

Chairman GILMAN. Well, we are going to limit the opening statements to the chairman and to the ranking member.

Mr. MENENDEZ. Can I have unanimous consent—this is an item that is obviously important to the entire committee, particularly to some of us because of the nature of the constituencies we represent as well as because of the concerns that we have.

Chairman GILMAN. The gentleman will be recognized for an opening statement after the amendment is put before the committee.

Mr. MENENDEZ. Thank you, Mr. Chairman.

Mrs. MEYERS. Mr. Chairman.

Chairman GILMAN. Yes, the gentlelady is recognized.

Mrs. MEYERS. I have an amendment at the desk. Have you already gone—

Chairman GILMAN. We still have not begun debate on the substitute before us. Mr. Burton is about to be heard on it.

The gentleman from Indiana, Mr. Burton.

Mr. BURTON. Mr. Chairman, I want to thank you for your hard work and support. I also want to thank the very hard working members of this committee, Bob Menendez on the other side of the aisle: Bob Torricelli who was the primary author of the Cuban Democracy Act of 1992, Ileana Ros-Lehtinen, and Lincoln Diaz-Balart. They and their staff have done a great service to the people of this country and to the members of this committee.

Mr. Chairman, I appeal to the moral sense of all the members of the committee. I ask all of you to view this issue, which tends to inflame the passions at the most basic moral level. Please remember, we are not talking about abstractions here. We are talking about the very lives and freedoms of the people of Cuba.

Let us make no mistake about it—Cuba, under Fidel Castro, is one of the most repressive dictatorships in the entire world. There is no credible evidence that Fidel Castro is prepared to change in any fundamental way. He still believes in socialism or death. He is only interested in staying in power.

Even former Costa Rican President Oscar Arias said after a recent visit to Havana that there is “no will for change in the Castro government.” He went on to say that it is no longer ideology that the Cuban Government is defending. What is paramount is the arrogance of power.

I appeal to my colleagues to keep faith with the people of Cuba by supporting this bill. We have all heard the arguments against our approach. Frankly, they simply do not pass muster.

We are told in the post-cold war era that the embargo is obsolete, that Castro is no longer a threat, and that we are fighting yesterday's battle. The cold war may be over, but Castro is still the same. He is still oppressing his people. His motto, as I said, is socialism or death. He is still supporting subversion in other countries. He still represents a threat to the United States' interests, and nothing illustrates this fact more graphically or more ominously than the nuclear power plant at Cienfuegos. There is very strong reason to believe that the construction of this plant is inherently faulty. We talked to some people who worked on that plant who said that the workmanship is very shoddy and that the continued construction of the plant represents a threat to the health and safety of not only the people of Cuba, but of the entire southeastern part of the United States and throughout much of the other parts of the coun-

try as well as Central America and parts of Latin America. The power plant is further evidence of the contempt which Fidel Castro has for human beings, both inside and outside of Cuba.

Perhaps even more chilling—and we had hearings on this, Mr. Chairman—is the case of the March 13 tugboat. Last July 13, over 70 Cubans—men, women and children—were attempting to flee the prison that is Castro's Cuba. When their tugboat was discovered by the Cuban shore patrol, they were repeatedly rammed by the Cuban patrol vessels, causing their boat to sink. They had high-powered hoses that they directed at women and children on the decks. The women were holding the babies aloft so the Cuban navy could see them, and they directed the power hoses at them. The women went down into the hull of the tugboat with the children, and patrol vessels pulled up alongside, and directed the hoses into the hull, and they drowned them like rats. The people who testified before our committee gave their eyewitness account, and it was horrifying.

Another argument that is made is that the embargo does not work. Again, the answer was simple: There was no real embargo until the Cuban Democracy Act. Only with the collapse of the Soviet Union did Cuba lose its nearly \$6 billion subsidy from the USSR; and only in 1992 did we pass that act authored by our good friend, Bob Torricelli, which gave the embargo real teeth.

The embargo is obviously working. That is why Castro is so desperate to stop this bill. Make no mistake about it—in Havana he is doing everything he can to stop this bill. That is why he has been forced to make some minor reforms in order to attract foreign capital.

I find it very ironic that some of the same people that supported sanctions against South Africa and Haiti, for example, oppose them in the case of Cuba. Why the double standard? It is obvious that, at least in the case of South Africa, trade sanctions played a significant role in bringing an end to apartheid.

Our bill is strongly in keeping with the bipartisan tradition of isolating Castro, and working to bring democracy to Cuba. It is obvious from the lineup that we have here in support of the bill that it is well beyond any partisanship.

I will summarize our bill very briefly: it is a major weapon in the fight for freedom in Cuba. Title I seeks to enforce and tighten the embargo; Title II sets up a plan to aid a transition to democracy in Cuba; and Title III protects the property rights of U.S. citizens.

I strongly urge you, my colleagues, to cast a vote today for freedom, democracy, and human rights in Cuba. Send a very, very strong message to Fidel Castro that a yes vote for the Cuban Liberty and Democracy Act of 1995 portends future freedom in Cuba.

Thank you, Mr. Chairman.

Chairman GILMAN. The gentleman's time has expired.

Mr. Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman.

Mr. Chairman, how much time do I have? What are the rules under which we are operating?

Chairman GILMAN. You have five minutes, Mr. Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman.

Mr. Chairman, in one of the great contributions of this committee to the work of this Congress, several years ago we established U.S. policy toward Cuba on a strong bipartisan basis. Today we have an opportunity to do so again. Both in the substance and the tone of our debate and the amendments we offer today, there can, to the international community, be an unmistakable message.

With regard to the policy toward Cuba and the freedom of the Cuban people, there are no divisions of ideology, region, or partisanship. The policy that we offer today as a subcommittee on a bipartisan basis is a recognition of reality, the reality being that, no matter how much we would hope that it would be different, no matter how much logic might dictate to the contrary, Fidel Castro will not reform. There will be no voluntary changes in Cuba.

The principal witness is Fidel Castro himself. He has made clear that the revolution will not be changed. It is his term, "socialism or death," not mine. This policy is based on that reality. It accepts the fact the embargo is the only alternative available in the great traditions of the embargo of South Africa against apartheid, the Jackson-Vanik amendment for Soviet Jewry, and the entire post-cold war, post-war history that is based on the use of economic pressure.

Some argue that, no matter the prospects of success, there is no value because Cuba represents no threat to the United States. Nothing could be further from the truth. The cause of freedom and human rights predates the cold war. Cuba is a threat to everything that is important to the United States, all of our values, all of the things we have pursued throughout the 20th century for human dignity and respect.

For us now to abandon those causes simply because Russia no longer uses it as a base of operations is to confirm all the cynicism of those who doubted during the cold war that we were really interested in freedom rather than simply defending our own local interests.

I recognize that there are many nations who will not stand with us. I regret it, but indeed I consider it a source of great pride. The United States has stood alone for freedom, and we have never been in better company. If we are the only nation that will forego economic opportunity simply for the defense of human rights, that says a great deal about the United States and also speaks volumes about those who would profit by the misery of the Cuban people.

Mr. Chairman, I know patience is not a great virtue of American foreign policy, but today we have the right to appeal for patience. The embargo against Cuba is only 3 years old. It is breaking the back of Cuban resistance, even if only in small measures. Castro has begun to look at the reality of his own economic situation. He has had to retire one-third of all Cuban military forces. He has had to change how the Cuban people are beginning to feed themselves. He has at least begun to look to the West. I urge today patience. Build on the foundation of the work of this committee. We can bring change.

Mr. Chairman, there are some who are arguing that it is time to declare success. Fidel Castro's response to the previous acts of this committee: He is allowing people to open small restaurants and have vegetable farms. I am glad he has instituted those re-

forms. They are an indication of our ability to bring change in policy, but they are not success themselves. This policy was never about the right of the Cuban people to grow tomatoes, it is about the right to be free. It is not now time for us to begin to change our policy. The obligation is his.

The next logical step is Mr. Burton's legislation. It builds on the work of this committee. Mr. Chairman, to summarize and conclude, it principally does three things, and today we could look to amendments. I know Mr. Burton and I and other members of the committee are open to everyone's suggestion. But I implore you to keep three essential elements of the legislation:

First, people who would traffic and profit in the seizure of American property will not get access to the United States. The message must be unmistakable. If you have seized American property, if you intend to profit by the loss to American citizens, you do not deserve entry into the United States.

Second, if Castro wants to retain power by continuing singularly to export sugar products from Cuba, he cannot be allowed to get that product into the United States secondarily. What you cannot do under the law primarily you should not be able to do secondarily.

And, third, Mr. Chairman, we would ask that the disincentives be there in order to discourage widespread visitation to Cuba. When we can do so for information to the American people, we will do so, but not to change the basic 30-year foundation of the policy.

I know we will have a worthwhile debate today, Mr. Chairman. I know it will be substantive and informative. But for these things, the basic substance of the policy, I hope that we can remain, on a bipartisan basis, committed to moving forward and confronting this Castro government and restoring freedom to the Cuban people.

Thank you, Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Torricelli.

The gentleman from New Jersey, Mr. Smith.

Mr. SMITH. Thank you very much, Mr. Chairman. I want to thank you for bringing this very important legislation before the full committee.

Cuba is one of the few countries of the world in which the struggle against totalitarianism has not yet been won. Because of the proximity of Cuba to the United States and the historically close relationship between the peoples of our two nations, it is especially important that this victory come sooner rather than later.

To give just one example of the moral turpitude of the Castro regime, it is one of the few governments of the world who treats people who leave the country as political criminals. The Cuban Government calls the refugees gusanos, or worms, and frequently subjects them to substantial prison sentences for such crimes as, "dangerousness" and "being disaffected with the revolutionary process." Cubans convicted of the crime of illegal exit Mr. Chairman, are believed to constitute the largest class of political prisoners in Cuba.

In evaluating all proposed legislation with respect to Cuba, it is important to keep several principles in mind. First, such actions must recognize that the Castro government is a rogue regime with which civilized nations of the world should have no dealings. Yet we hear from some within the Administration they would like to

give this brutal regime an even longer lease on life by making further diplomatic overtures.

Both Mr. Burton's subcommittee and my Subcommittee on International Operations and Human Rights, members of those committees and this particular chairman, are appalled by those overtures. The Cuban Liberty and Democratic Solidarity Act of 1995 would restrict the ability of this administration or any other administration to make such a mistake.

Second, our actions must be calculated to hurt the Castro government, not the Cuban people. There is no question that an embargo imposes short-term economic hardship on innocent people. It is, therefore, justifiable only if it is genuinely calculated to bring an end to the regime that is the real source of their pain and suffering. An embargo is far more likely to have this effect if it is respected by as many nations as possible. Again, the Cuban Liberty and Democratic Solidarity Act would help by denying certain benefits to non-U.S. entities that evade the embargo.

Finally, we should make it clear that a democratic Cuba will receive a warm welcome back into the family of free and democratic nations. The provisions of the Cuban Liberty and Democratic Solidarity Act will provide support for a transitional government during the immediate post-Castro period and for a freely elected government starting 2 years thereafter, and will help send that clear, nonambiguous message.

Mr. Chairman, this bill presents us with a question of what role human rights and basic decency ought to play in our foreign policy. Mr. Chairman, our subcommittee has had hearings with a variety of human rights organizations, and Amnesty International, in a very important piece of testimony they provided, said that human rights is an island in this administration that country reports on human rights practices delineating and detailing these heinous practices around the world very often become a dodge, a way of preventing real action. Again, when you look at the way this administration has dealt with human rights, dividing or delinking human rights with MFN in China, for example, after having a very strong policy, it raises very serious questions about its commitment to human rights.

Mr. Chairman, we must also realize schmoozing with dictators makes us coconspirators, perhaps unwittingly. But when we are dealing with people like Fidel Castro and we aid and abet such people, it makes us a coconspirator with oppression.

I also want to thank my friend, Mr. Burton, for his leadership on this important bill. His subcommittee, of which I am a member, has had a number of important hearings on Cuba, the refugees and other issues related to Cuba, but on this particular bill he is a champion of human rights generally and specifically on this bill for the people of Cuba.

I also want to thank my good friend, Bob Torricelli, who laid the groundwork for this bill with his Cuban Democracy Act, and the good it has done in clearly laying down the marker that we care about human rights and we are willing to put our money where our mouth is. When you link trade with human rights, that is the real test. I want to thank my good friend, Bob Torricelli, for his leadership as well.

I yield back the balance of my time.

Chairman GILMAN. The gentleman's time has expired.

Mr. Menendez.

Mr. MENENDEZ. Thank you, Mr. Chairman. I want to say—

Chairman GILMAN. Mr. Menendez, if I might interrupt a moment—my colleagues, we now have a list of 12 amendments to this bill, and we still have four—at least four opening statements. Please keep an eye on the time as you make your statements. We welcome brevity. Thank you.

Mr. Menendez.

Mr. MENENDEZ. Thank you, Mr. Chairman. It is rare that I make an opening statement, either at a subcommittee hearing or a full committee hearing, but I am compelled to do so today.

I want to start off by thanking you for your continuous support, particularly on this matter, and I want to specifically note that the chairman of our subcommittee, Dan Burton, has done an extraordinary job in keeping world opinion through this Congress and this subcommittee on the only country within the hemisphere which does not enjoy the basic fundamental freedoms that we cherish here in the United States. He has done that through his constant persistence of this issue, and I think that the Cuban people as well as the American people are going to thank him for it.

Mr. Chairman, this legislation strongly endorses the proposition that our policy toward the Cuban dictatorship must address the hard and disturbing realities of Castro's tyranny, not the unwarranted hopes for this dictatorship that some still maintain, and it just as strongly rejects the notion that we must formulate policy toward Cuba's dictatorship as if it were not a dictatorship but a civilized member of the international community.

And I want to thank the members, particularly those of my colleagues on the Democratic side, who have joined in cosponsoring the bill and others who, in my conversations with them, have kept an open mind about the bill. I appreciate that.

Fidel Castro may don a European suit and sip chablis with the Mitterrands, but that does not make him a civilized man. When Mrs. Mitterrand stated that the Cuban dictator is not a dictator, but that does not mean that she speaks the truth. In reality, Fidel Castro is an uncivilized dictator who runs an uncivilized rogue regime which is an unmitigated failure as a model of governance. And let me just cite a few examples in that context. I want to strip some of the myths away.

In 1959, Castro promised to rid Cuba of prostitution, but in 1995 the revolution has managed its growth to unprecedented levels. In February of this year, the Italian magazine *Viaggiere* voted Cuba, quote, "the paradise of sexual tourism." Countless Cuban mothers and fathers must suffer the indignity of watching their young teenage daughters leave home at night to prostitute their bodies to Western European and Canadian tourists.

The revolution that in 1959 promised an end to capitalist exploitation, in 1995, it grants Sherritt a Canadian mining concern, unlimited rights to dump raw waste from a nickel processing plant on the Moa Bay on Cuba's eastern shore.

The revolution which portrayed itself as a model for race relations continues to be run by an exclusive white elite with few, if

any, Afro-Cubans in significant decisionmaking positions. Not a single member of Castro's inner circle is black. Moreover, blacks are seldom found in high positions of military authority although they make up a great majority of that army. And, contrary to conventional wisdom among some analysts, there was never an appreciable socioeconomic advancement for that sector of the community. Rather, a general lowering of living standards equally applied to all.

These are some of the realities. I talk about these because these are the realities to misplace out there the misconception that often exists about this revolution. The revolution which promised the Cuban people dignity after dictatorship of Batista has instead imposed 36 years of Castro's tortures, including the use to this day of electroshock therapy on political prisoners and other dissidents, thousands of political executions, and the widespread abuse and thorough denial of the most basic of human rights of the Cuban people.

Throughout my 21 years of public service, I have met too many victims and too many devastated families of the victims of Castro's cruelty—too many to ignore.

Let me close, Mr. Chairman, with your admonition. I had a longer statement which I ask to be included in the record, but let me just close by saying those who believe—and I believe that they are the overwhelming majority of this committee—that we want to promote human rights as a democracy, as the Secretary of State has come before the committee and said, as one of the pillars of political diplomacy, those who believe that we want to see that accomplished in Cuba will be voting for this bill because the history of this dictatorship is one that responds out of necessity. It is necessity that has led Castro to allow the use of U.S. dollars. It is necessity that has made him allow the international investments that have been made. It is necessity that reduced the third largest army in all of Latin America. Now it is necessity that stopped his exportation of that army abroad to create revolution in differing countries.

So, therefore, we continue on the path in this bill of creating the necessity that can create the opportunity for freedom and democracy to come to the people of Cuba.

I appreciate the chairman's indulgence.

[Mr. Menendez' statement appears in the appendix.]

Chairman GILMAN. I thank the gentleman.

Mr. Salmon.

Mr. SALMON. Thank you, Mr. Chairman. I will make my statement brief.

This bill is not about sugar and cigars so much as it is about carrots and sticks, and the message that we send to the Castro regime is simple, very simple: The oppression of the Cuban people must stop. The bill tightens the embargo against the Castro regime and presses our allies to do the same. That is the stick. And this bill affirms our Nation's strong support for the Cuban people and defines the support we stand ready to provide to a transition government and a democratically elected government. This is the carrot. This offers a simple choice to the Castro regime, to the last Communists in the Western Hemisphere outside, of course, some of our

college campuses. If they will free their people, the American people will help them rebuild their country.

Without Soviet largesse, the Castro regime is faltering. Let's bring down these repressive thugs. H.R. 927 will help us do that.

Thank you.

Chairman GILMAN. I thank the gentleman.

Mr. Johnston.

Mr. JOHNSTON. Thank you very much, Mr. Chairman.

I will take a very unpopular position of opposing the bill, and I have the greatest respect for those who have spoken before me. I agree with everything they have said about Fidel Castro. I have no question of their motives in trying to get Fidel Castro to fall. But I think we are playing right into his hand, and this bill will backfire, as other pieces of legislation have backfired the last 36 years. It will give Castro another chance to play the victim, as he has played many times in the past. He will blame the United States on the economic conditions of his country and will likely throw open the borders for another boatlift, again inundating South Florida.

Mr. Chairman, I am a native of Florida, and I was there in 1959, 1960, 1980, and I have seen what has happened there. Literally, it is kind of the tale of two cities. It is the best of times, and it is the worst of times.

It is the best in the sense that they have sent us such leaders as Congresswoman Ileana Ros-Lehtinen, a Republican from Florida, a Cuban American; Mr. Menendez, a Democrat from New Jersey.

It is the worst of times in the sense that 700,000 or, 10 percent, of the Cuban population is now in the United States and principally in South Florida. It has nothing to do with ethnicity. If they were Norwegians or Swedes, when you absorb 700,000 people, it has a tremendous physical impact.

I feel that the provisions of this bill will play right into the infirmed hands of an aging dictator. Cuban communism will pass in a natural cause if they are given the same opportunity, the Cuban people, as we gave those in Eastern Europe.

The difference between Cuba and South Africa is that it was not an embargo in South Africa, it was sanctions, and you had international cooperation there. Right now it is the United States that is the only country in the world that has an embargo there.

One of the previous speakers said that Fidel Castro will not reform. Another said there is no will for change. I agree with that 100 percent. Let me quote from a columnist from a South Florida newspaper: The man who has outlasted eight United States presidents and the trade embargo sits in Havana waiting for the next page of his script. He has been acting in the same sorry play for 35 years because we keep giving him the material for this script, and Castro's material is a nationalistic trump card, and let's not give it to him again.

Second is, this legislation, I think, is based on a false pretense: Cutting off Cuba economically and politically will expedite Castro's fall. To the contrary, I believe the free flow of political and economic ideas was critical to the downfall of communism in the Soviet Union and was critical to the downfall in Eastern Europe.

We continue to interact with China, a country which has terrible human rights records, in the hope that exposure to the West will encourage change there. We should apply the same principles, the same lessons, if we effectively wish to hasten Castro's departure.

We have had this embargo for 33 years, and Castro unfortunately is still with us. I think we should try something different here, and I believe that we should change courses and it is time to lift the embargo. We should seek a policy of positive engagement with the Cuban people, not with Fidel Castro, and change will come because we could have avoided Mariel.

I speak to a lot of Cuban Americans in South Florida, and if we had opened up this back in 1975, Castro would no longer be with us, and I firmly believe that.

Second, there are two philosophical reasons—and I will close briefly, Mr. Chairman. The second is a technical one, and I believe that this bill violates GATT, I believe it violates NAFTA, and the extraterritorial reach of this U.S. law is highly questionable.

Mr. Chairman, it is an unpopular view. It is certainly not popular in my district in South Florida. But I play tennis. If I am losing, I try to change the game. We have been playing the same game for 33 years, and I think by changing it that we will be effective in hastening the departure of this despot.

Thank you, Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Johnston.

Mr. Funderburk.

Mr. FUNDERBURK. Thank you, Mr. Chairman.

I couldn't disagree more with the previous speaker. I spent 6 years in Communist East Europe. From my experience there as U.S. Ambassador for 4 years and living there for 6 years, I can say that giving aid and comfort, giving Most-Favored-Nation status, weakening economic sanctions, are not successful ways to bring down Communist dictatorships.

I watched aid and high level diplomacy go to Ceausescu's Communist dictatorship. It only strengthened his hold on power. It only prolonged the hold on people.

Castro has been a very good friend of most of the worst tyrannical Communist dictators. Cuba, like Romania under Ceausescu, is a Latin Romance-speaking Communist country. We can best help free the Cuban people and stand for America's values by standing in solidarity with the Cuban—the courageous Cuban people who want freedom, democracy, privatization, and basic human rights.

We should strengthen economic sanctions against the Castro regime. Let's show our support for democracy in Cuba, and it can't happen with Castro in power. I very strongly support this Cuban Liberty and Democratic Solidarity Act.

Thank you.

Chairman GILMAN. I thank the gentleman.

Mr. Engel.

Mr. ENGEL. Thank you, Mr. Chairman.

I rise in strong support of the measure. I am pleased to be a co-sponsor of it as I was with the Torricelli bill a number of years ago. I have, throughout my entire congressional career, voted consistently to tighten the noose around Castro's dictatorship. I believe

that that is the only way that dictators understand. I have been subjected to picketing of my office as a result.

It is not necessarily popular in my district to vote the way I have been voting on the Cuban issue. I don't have many Cuban-American constituents. But I feel it is the right thing to do.

Why would we, in all good conscience, 35, 36 years after we have been opposing this dictator, now that he is finally on the ropes in his last days, we hope—why would we want to let him off the hook now? Why wouldn't we want to tighten the noose around this brittle dictatorship that for years and years has shown no signs of change, has arrogantly thumbed its nose at the world and at the United States?

And, my colleagues, what makes Cuba different for me is that it is 90 miles from our shore. So I think that the embargo and all the things that we have tried to do through the years have been very justified because Cuba is 90 miles from our shore, and while it may not in the physical sense anymore represent a threat to us, I think that being the last dictatorship in the Western Hemisphere is a very undistinguished record and is not something that we would like to see continue.

The Soviet Union and the Eastern bloc propped this dictator up for so many years, and, as was mentioned before by our colleagues, the only reason that there is even a modicum of change in Cuba is because Castro was forced to do it because the Soviet Union no longer exists, his Communist brothers no longer exist in Eastern Europe, and so he is forced to make a change. Mr. Menendez said that I thought quite eloquently. There is no reason for him to change unless the noose is around his neck.

I mean the test is very simple. If Fidel Castro would allow political pluralism and would allow democracy in Cuba, then I might feel differently about him, but he has absolutely shown that he will not change, and the only time the people of Cuba are going to get the freedom and democracy that they deserve, the kind of democracy that any people, any country, deserve in any country, is if Castro's regime is brought down. That is what I think this bill does. That is why I think this bill is so important.

You know, we have arguments in this Congress about a lot of things, Most-Favored-Nation trading to China, and the argument always on the other side is, well, if we don't do it, other countries will step in; if we don't trade, other countries will step in.

Well, this sends a word to companies in other countries that they can no longer get away with it, that we are going to penalize them if they do certain things that we as Americans regard not in our best interest with a country that is only 90 miles from our shore. So I would say to my colleagues I think this bill ought to have broad bipartisan support.

I like the fact, by the way, that it directs the early conversion of Television Marti to ultra-high frequencies to broaden its availability in Cuba. I know in some of the bills we passed in this Congress we are eliminating Radio and TV Marti and we are eliminating some of the Radio Free Europe and some other things. I think that that is very important.

So yes, have contacts with the Cuban people, with mediums such as Radio and TV Marti, with other medium as well, but don't less-

en the noose on the Castro regime. Don't make it easier for the aging dictator to stay in power. I think that this bill may finally be the last straw that topples the aging dictator and brings democracy to the good people of Cuba after so many years.

Thank you, Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Engel.

Mr. Kim.

Mr. KIM. Mr. Chairman, thank you.

I rise in strong support of this resolution. I have a written statement, Mr. Chairman. In the interest of time, I would like to ask unanimous consent that my written statement appear in the official committee record.

Chairman GILMAN. Without objection.

Mr. KIM. Thank you, Mr. Chairman.

[The statement of Mr. Kim appears in the appendix.]

Chairman GILMAN. Mr. Hamilton.

Mr. HAMILTON. Thank you very much, Mr. Chairman.

First of all, let me say that I will oppose the bill. I do want to say that I have admired the skill and the eloquence of the advocates of the bill and I understand them to be very well motivated, and I certainly do not intend to say anything in the course of the debate that challenges their motives. I do not yield to them in my support of freedom. I don't yield to them in my condemnation of Castro, in my desire for the improvement of the quality of life of the Cuban people. I condemn Mr. Castro as strongly as any person on this committee.

The question we confront here today is not whether we approve or disapprove of Fidel Castro. All of us disapprove of him and regret what he has done over a period of many years in Cuba. The question we have to confront is: What is the American national interest—not the Cuban interest—what is the American national interest, and how do we best advance that interest?

Now, I think all of us agree as to what the American national interest is. The American interest in Cuba is to promote a peaceful transition to a democracy and a free economy, and what you have as we debate this bill and some of the details of it is really two very, very different philosophies or approaches on promoting change in Cuba.

On the one hand, proponents of the bill take the view that if you make conditions significantly worse in Cuba than they are today, you will cause the Cuban people to rise up against their government and overthrow Castro. The other approach says that the Government of Cuba can be toppled peacefully by exposure to a free flow of ideas and the benefits of a free market. All of us agree that Mr. Castro has to go.

Now, I want to point out that this bill does not support present policy. This is a change of policy. We mark a major shift in American policy toward Cuba if this bill is adopted. This bill does not reinforce the status quo. It does not simply revise current policy on property rights, sugar imports, and visa applications. This bill toughens the embargo. It tightens the noose on the Cuban people. It is going to make life worse for them, not better. The bill increases Cuba's isolation, and it represents a significant change in three decades of policy towards Cuba.

Now, I want to say that my position here is shared by some prominent names. The most important Republican foreign policy figure of his generation was Richard Nixon. He reached the conclusion shortly before his death that this embargo had to be lifted. I will not be arguing for lifting the embargo, rather, a more nuanced policy. But he clearly took the position the embargo should be lifted.

Former Secretary of State Eagleburger, former National Security Adviser Brzezinski, William Buckley, Oscar Arias, the Cuban Catholic Bishops, the editorial pages of the New York Times and the Washington Post and the Wall Street Journal, all of these respected voices believe that the direction that this bill leads us is the wrong direction with respect to American policy.

I think this bill will damage U.S. interests in several ways. The first one I am sure will not impress too many, but I think it is an important one. By increasing sanctions, this bill puts the United States at odds with almost every country in the world. I think Israel voted with us in the United Nations, but Israel is doing business today with Cuba, and no other countries have supported the position of the United States. And, to be very blunt about it, I see absolutely no possibility that you are going to get international support for the position that the United States takes in this legislation.

Secondly, I think by increasing Cuba's isolation this bill will make conditions in Cuba worse than they are today. If we make the Cuban people more desperate, we increase, I think, rather than decrease, the likelihood of violent change and we certainly increase the chances of another exodus to the United States.

Quite apart from the two approaches I have been talking about, however, are the administrative difficulties that this bill will create, and I direct your attention to these and will throughout the debate.

The embargo on Cuban sugar will simply be impossible to enforce. Sorting out hundreds of thousands of potential new property claimants in Cuba will tie up U.S. courts for years, and those who now have valid claims are going to see those claims seriously diluted. New visa restrictions, because they could affect hundreds of thousands of aliens, will put an unmanageable burden on the Department of State.

We are creating new bureaucratic hurdles for sugar imports and putting great burdens on our allies, as they have expressed repeatedly to me in letter after letter, but also burdens on U.S. customs officials.

We will require sharp cuts in aid to Russia. We will force the United States to withhold payments to international financial institutions in direct violation of U.S. commitments to those institutions.

We will restrict Cuban Americans from traveling to Cuba or sending remittances to relatives there. We will deny visas to any person who is a shareholder with a controlling interest or a direct relative of such a shareholder in any company that is doing business using confiscated property in Cuba.

We will allow under this bill anyone whose property was confiscated in Cuba during the last 30 years to sue in U.S. courts.

That opens the door to U.S. citizens and noncitizens alike to tie up U.S. courts for years to come.

I think the implications of this bill are exceedingly serious. It violates NAFTA. Many of us on this committee, including myself, voted for NAFTA. This bill just turns right around and violates it. NAFTA, of course, guarantees the free movement of business travelers throughout North America. This certainly will undermine our leadership at the IMF and the World Bank. It ends our support for democratic reform in Russia and I think adds a lot of administrative complications.

Let me just conclude by saying that I am fully aware of where the votes are in this committee and, I suspect, the House. It is not my intention to delay this bill or the amendments to it. I don't have any doubt at all about how the votes are going to fall with respect to this legislation on this committee, but I do hope my colleagues on the committee appreciate the fact that I see serious problems in the bill and I do want an opportunity to spell those problems out as I understand it.

Finally, might I just say that Cuba is a very important foreign policy problem for the United States. All of us agree to that. But I think what happens in this bill is that Cuba drives all other aspects or many other aspects of American foreign policy. It kind of turns our priorities around, and it suggests in a sense that Cuba is the only country that counts. It suggests that our relations with every other country in the world should take second place to Cuba. I think this bill puts at risk our relations in many other areas of the world, not just in this hemisphere.

So Mr. Chairman, I appreciate the opportunity to state this, and I will try to be as constructive as I can as we proceed here in pointing out, I think, some of the deficiencies of the bill. I have not any doubt at all that those who advocate it do it out of the purest of motives and out of a very sincere desire, which I really share; that is, to get Castro out, so that the Cuban people no longer suffer under his dictatorship.

I thank the chairman.

Mr. BEREUTER [presiding]. The chair has exercised his discretion granting the ranking member additional time since he is a major voice in opposition to the bill. But I would expect to implement, and I know Chairman Gilman will implement, the 5-minute rule from this point.

Mr. HAMILTON. I appreciate it, Mr. Chairman.

Mr. BEREUTER. I recognize the gentleman from Virginia, for an opening statement.

Mr. MORAN. I thank the gentleman from Nebraska, the chairman of the Subcommittee on Asia and the Pacific.

I oppose this bill as well, and I associate myself with the remarks of Mr. Johnston and Mr. Hamilton. I know there are many people in this country who would like us to go back to the Battista days. There are many people in this country whose families benefited from that situation. But I think it was the gross injustice, the blatant racism, the oppression of the Battista regime, that gave us the Castro revolution, and I think it would be another example of not learning from history to try to create a situation that is bound to give us an even worse situation subsequently.

I don't need to say any of the things that have been said about Castro and I don't disagree with any of them. But I do disagree that this bill is the proper direction for the United States. Certainly, for people to be able to bring within the U.S. court system claims for properties that were held 30 years ago is going to tie up this court system, is going to create an untenable situation in Cuba with any transitional government.

The bill also creates a situation where we cannot help a transitional government until all the criteria listed in this bill is completed. So that means that rather than aiding in a constructive transfer to a transitional government, we are going to be forced to stand on the sidelines watching. It creates situations with our allies that again cannot be complied with by the letter of the law. We are going to have to find ways around these restrictions just to exercise common sense and to maintain reasonable relationships with the allies that are clearly in the best interests of this country.

I understand where this bill is coming from and why it is before us. I will offer an amendment to at least make the criteria factors to be considered by the President in reaching a judgment as to when and how we might aid in the effective transfer to a democratically elected transitioning and ultimately fully stable democratic government in Cuba. I think that is the proper way to go. I think this is counterproductive. And I think in the long run while it may achieve political ends, it will not achieve the common foreign policy objectives of the United States.

Thank you, Mr. Chairman.

Mr. BEREUTER. We are now prepared to consider the legislation. I recognize Mr. Hamilton for an amendment.

Mr. HAMILTON. Thank you, Mr. Chairman.

The amendment is a substitute for Title III and strikes Title IV as well.

Mr. BEREUTER. The clerk will read the amendment.

The CLERK. Amendment to the amendment in the nature of a substitute offered by Mr. Hamilton. On page—

Mr. HAMILTON. Mr. Chairman, I ask that the amendment be considered as read, printed in the record, and open for amendment.

Mr. BEREUTER. Without objection.

[Mr. Hamilton's amendment to the amendment in the nature of a substitute appears in the appendix.]

Mr. BEREUTER. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. HAMILTON. Mr. Chairman, this is a fairly complicated amendment and I am afraid it is going to get a little technical. I apologize for that.

But the section of Title III for which I have a substitute sets out a policy intended to justify the creation of a legal cause of action, vastly expanding the ability to bring suit in U.S. Federal Court on Cuba property expropriations claims. It allows U.S. nationals with expropriation claims to sue for damages in U.S. Federal Courts those entities which have purchased, profited from, used, or managed the appropriated properties.

And section 303 makes it relatively easy for a claimant to establish proof of ownership.

Now, Title IV requires the Secretary of State to exclude from the United States any alien who has confiscated the property of a U.S. national, who traffics in confiscated property, or is the principal shareholder or holding a controlling interest in any entity which has been involved in the confiscation or trafficking in the property of a U.S. national.

All of us would agree that the goals of Title III and Title IV are worthy and it is quite understandable that we want to protect U.S. nationals with outstanding property claims against Cuba in every way possible.

I think the methods used in Title III and Title IV create many, many more problems than they are going to solve. Title III will create a litigation boom and the people who are going to benefit from it are the lawyers. They are going to be the guaranteed beneficiaries of it.

Title III allows those who became U.S. citizens after their property was nationalized or confiscated to make claims in the U.S. courts. It is going to explode the number and value of U.S. property claims, estimated from \$6 billion today to \$100 billion. And an explosion in the numbers of suits is not going to lead to a more meaningful recovery for U.S. claimants; it is going to seriously undermine the ability of current claimants to recover property under claims that they have already filed. And beyond Cuba, this title is going to discourage foreign governments from negotiating government-to-government claim settlement agreements with the United States.

This provision in the bill does not mean more people will get their property back. It does not mean that more people will get just settlements on confiscated property. It does mean you are going to have an explosion of default judgments.

The defendants are not going to show up. They are not going to pay. The plaintiff will not get any money. But the plaintiff will be stuck with a lot of legal bills to pay for bringing the case. And it means that the lawyers are going to get a lot of money for filing and defending an explosion of cases in Florida in the Federal Courts. It also means that the Federal bench in South Florida, which is already overwhelmed, is going to be inundated with a lot of additional cases.

In addition, Title III subjects foreign nationals to suits for damages in the United States for business dealings related to property in Cuba, making U.S. law apply to those cases. That is going to invite reciprocal action making U.S. businesses vulnerable to lawsuits. Title III applies U.S. law to business dealings completely outside the United States.

Mr. BEREUTER. The chair recognizes himself.

Mr. HAMILTON. I will try to conclude.

Mr. BEREUTER. I yield to the gentleman.

Mr. HAMILTON. I apologize. It is a complicated provision.

But this Title III allows a U.S. citizen, or a foreigner creating a U.S. company, to file a lawsuit over property that has no U.S. connection apart from the owner. That means the U.S. Government asserts jurisdiction for transfers of property between two non-U.S. parties occurring entirely outside the United States. And this goes far beyond accepted international practice.

So I think, Mr. Chairman, that Title III really needs major revision, and with respect to Title IV, I don't think that is enforceable. In order to enforce that provision effectively, consular officers in every country in the world will be forced to spend enormous amounts of time delving into wide-ranging financial transactions to determine whether or not people are excludable from the United States. The Department of State has already today got a record number of applicants for temporary visas to the United States. The system is already backlogged and this provision is simply going to bring it to a standstill. So I think Title IV is misguided and overbroad and unenforceable.

Well, there are other problems, so I would like, Mr. Chairman, if I could, to have the State Department comment on Title III and Title IV, if they would.

Mr. BEREUTER. Would a representative of the State Department come forward and use the remainder of my time and address the questions from Mr. Hamilton.

Mr. CURRAN. I am Dean Curran, Deputy Assistant Secretary of State for Legislative Affairs.

While the administration does support the general goals of both sections, we have serious concerns on both policy and legal grounds, and if I may, Mr. Chairman, could I ask the Deputy Assistant Secretary of State for Inter-American Affairs to very briefly address those policy grounds and the legal attorney advisor in the legal office, Allen Weiner, to address the legal concerns and answer any questions.

Mr. BEREUTER. Certainly.

Ms. PATTERSON. Thank you, Mr. Chairman.

I want to say we certainly support the goals of protecting U.S. property claimants but we have serious practical concerns about this portion of the bill, and I would like to outline a view of those, if I might. The first, is in our view, it would seriously prejudice existing claimants since the universe of claimants, through the proliferation of lawsuits, would be greatly expanded. There are 5,911 original claimants certified with the Foreign Claims Settlement Commission. These individuals were U.S. citizens at the time of confiscation, and their claims are already certified.

The proliferation of lawsuits that we expect from this section of the bill, Title III, would also in our view cloud title to these properties for years to come in Cuba and U.S. courts. And it is a long-standing provision of international law that our first interest has to be to those U.S. citizens at the time of confiscation. In other cases, as in Nicaragua, we are quite prepared and we do offer facilitative and consular assistance to American citizens who were naturalized after their property was confiscated. In our view also, this provision could discourage governments, not just the Cuban Government, from entering into lump sum settlements. We recently have had a considerable success in this regard when we negotiated—that is our attorneys in the State Department and in the Foreign Claims Settlement Commission negotiated a large settlement with Vietnam which provided a settlement for 100 percent of the original certified claimants.

From a longer term perspective, we are also afraid that this provision would not enable the Cuban Government to privatize some

of these large commercial properties. And those of you who have worked on issues like Haiti and Panama and El Salvador know that privatization is really the key to long-term economic recovery and growth. If these properties—if the title to these properties were clouded in the United States, this would make it very difficult to secure clear title and privatize the properties.

And as Mr. Hamilton has pointed out so eloquently, we are very concerned about the reciprocity aspects of this from two angles. Let me give you a simple example. If an American had a dispute with the State of Tennessee, and he went to Germany and he took out German nationality, under this provision he could sue the State of Tennessee in German courts. We would strenuously object to such an action.

Also, we fear that this would enable American businesses who are using property in countries like Vietnam and the former East Germany—provisions like this would enable people to sue them in those courts even if these issues have long been settled.

So for a number of practical reasons—my colleague Allen Weiner can address the issues of international law—we feel this would cause chaos and prejudice the current claimants.

Mr. BEREUTER. Thank you. The gentleman requests the additional attorney?

Mr. HAMILTON. Yes. Let's have the attorney comment further.

Mr. BEREUTER. Would you identify yourself, please.

Mr. WEINER. Yes, Mr. Chairman. I am Allen Weiner, an attorney-adviser in the office of the Legal Adviser at the Department of State. I just want to say quickly I have watched many of you for many years. It is an honor to be a part of the dialogue, even if just a small part, today.

Among the legal concerns that we have, and we have a combination of legal and policy concerns on this issue, but essentially what that provision would do would be to make U.S. tort law of conversion applicable to property outside the United States—real property which is located physically in another country—on the basis only that there is an American citizen (who may not even have been a citizen at the time the property was taken) with a claim to the property. This would be the only basis that our courts would have for asserting jurisdiction over that property.

And we are seriously concerned about the reaction that other countries would have to this kind of an extra-territorial application of U.S. law. We are very concerned about the possibilities that other countries might reciprocate.

U.S. businesses are investing in Russia, in the eastern part of Germany, in Eastern Europe. Many of the properties at issue in those cases were at one time, going back 40 years, 100 years, expropriated from somebody who may be a national of that country or may now have moved on to a third country.

We believe that when our U.S. businesses invest abroad they ought to be able to ask the question: "Does the person transferring this property to me have good title under the law of the place where the property is situated?" Our businesses should not have to worry about the possibility of third persons having a claim under the law of another country where that property is not situated. We

think that this precedent, if other nations respond to it, could be very problematic for U.S. businesses investing all over the world.

It is also the case that this provision would significantly complicate the United States Government's ability to conclude a claims settlement agreement with the Cuban Government. I participated in the negotiation of a claims settlement agreement with Germany for property claims in the former East Germany that we concluded in 1992. The Cuban Government may very well refuse to negotiate on the basis of claims where the claimants may already have received compensation in U.S. courts. The Cuban Goul may say: "Why should we pay you or create a remedy or option under our law for claimants who have already recovered?"

We have roughly 6,000 claims, against the Cuban government, and will be stuck going through those claims case by case to determine whether somebody has a judgment or not, and whether or not the Cuban Government will be settling them. Moreover, as Ms. Patterson indicated, U.S. companies will have judgments—in some cases enforced, in other cases not enforced—when they go into Cuba to try to recover their property when the transition comes and the Cuban Government begins to return property as we will encourage the Cuban government to do. Foreign person will say: "Well, actually the U.S. company is no longer the owner of this property and should not get this property returned because I paid for it. I have already paid a judgment against me for that property. You shouldn't give it back to the American claimant. That would be double recovery for that claimant. I now am essentially the owner of that property because I paid for it."

I can tell you again from having witnessed the process in eastern Germany that tying up properties with competing or disputed ownership claims can be a significant barrier to private investment and the kind of economic growth that Cuba is going to need in order to bring about an economic recovery and a healthy transition to democracy.

It is clearly the case that we oppose the illegal confiscation of American property by the Cuban Government. We will negotiate with a future Cuban Government for a claims settlement agreement for U.S. claimants covered by the FCSC program. We will also encourage that government to establish a mechanism under its own law to provide for the return of properties claimed by all U.S. nationals. We believe that this is a far more effective mechanism than the one in Title III, which will injure American claimants, potentially injure American business, and put us at odds with our allies.

Mr. MENENDEZ. Mr. Chairman, may I ask a question of—

Chairman GILMAN [presiding]. Just one moment. It is Mr. Bereuter's time.

Mr. BEREUTER. I call upon the counsel for comments. Mr. Rademaker.

Mr. RADEMAKER. Thank you, Mr. Bereuter. A lot of comments have been made and I am somewhat at a loss to know where to begin. Maybe I can make a few observations and then respond in greater detail to any questions.

Chairman GILMAN. Please proceed.

Mr. RADEMAKER. First of all, I am pleased to see that the State Department now has a better understanding of the approach reflected in this bill. I think a lot of the original administration comments on this bill were based on a misapprehension as to what the bill was trying to accomplish. The premise of the bill is not that through the U.S. legal system we are going to settle property claims in Cuba and decide who actually owns property. Rather the thrust of the bill is to remedy the injuries sustained by U.S. claimants to property in Cuba occasioned by the decision by investors from other countries to come in and purchase illegally confiscated property. To put it in more legal terms, the basic theory of this legislation or at least this title of the legislation—is a tort theory, not a contract theory. The effort is to redress injury, not settle disputed issues about who owns the property.

Among the points that were made was that allowing lawsuits to proceed under this provision will somehow cloud title to property in Cuba. Once one understands that this is a tort-based remedy, it follows that there really will not be a problem of clouded title to property in Cuba. It will remain a matter of Cuban law with regard to who owns property in Cuba, irrespective of whether a judgment is entered against a foreign investor who acquired property in Cuba.

The Cuban courts ultimately will decide who owns that property, and in fact I think an argument can be made that because the total value—my understanding is that the total value of claims certified by the Foreign Claims Settlement Commission is \$1.8 billion. I think very few people believe that at the end of the day there will be \$1.8 billion in a fund to reimburse all those claimants.

So unlike the situation in Germany where you had the government of the Federal Republic of Germany prepared to fund the claims settlement mechanism, unless someone steps forward with \$1.8 billion—or a significant portion of that—claimants will not get full restitution. And by permitting certain claimants who are able to find what amounts to a deep pocket—a foreign investor who chose to invest in Cuba, notwithstanding the clouded title of the property—by permitting the claimant to get a judgment against that investor, and if the judgment is satisfied, it should be possible for the Cuban Government subsequently through its own legal system to conclude that the U.S. claimant received full restitution and to extinguish title to the property in Cuba. But that ultimately will be a question to be resolved within the Cuban legal system.

Chairman GILMAN. Thank you.

Mr. RADEMAKER. Perhaps I will stop there.

Chairman GILMAN. Mr. Sanford.

Mr. SANFORD. Thank you.

Can I follow up with a question? I am trying to clarify this in my own mind and what I have more or less done, if I break it down correctly, this is saying to me that under the Hamilton language, anybody—any American citizen at the time that Castro took over and had their land confiscated would still have a claim to their property, correct?

And under this language of the bill, anybody who left, let's say, at any point over the last 30 years would have a claim back to the property that they once owned even if at that time they were not

an American citizen. That in my mind would set up the difficulty of, let's say, you had an American citizen who left 30 years ago, then a Cuban takes that property, he himself leaves 15 years later to come to Miami, they are both claiming. Who wins?

Mr. RADEMAKER. I don't think that particular hypothetical would be a problem because it would only be trafficking that occurs beginning 6 months after the date of enactment that would give rise to liability.

Chairman GILMAN. Permit me to interrupt a moment. We are being called to the floor. This is not the last vote. I am informed there may be another vote at 1:30. I am going to ask that our committee continue its work until the last vote, and at that time then we will recess our proceedings until Tuesday, July 11 at 10 a.m.

Mr. MORAN. Mr. Chairman, just a point of clarification. The order of amendments will go in the order of seniority of committee members? That is kind of a relevant issue for those who sit down in the bowels here.

Chairman GILMAN. We are trying to work that out with the Minority and we thought we would do one from our side and one from the other side.

Mr. MORAN. But you would go generally in seniority order?

Chairman GILMAN. Generally.

Mr. TORRICELLI. Unless we don't like the amendment.

Mr. MORAN. You will go in seniority order.

Chairman GILMAN. I am going to suggest we recess until following this vote. I believe Congresswoman Ileana Ros-Lehtinen has a short statement before we recess.

Ms. ROS-LEHTINEN. I would hate to classify any statements I make as short, Mr. Chairman, so in the interests of time if we could vote, I don't mind having my eloquent words await.

Chairman GILMAN. All right. Then we will now recess until after this vote. Please come back as quickly as possible. The committee stands in recess.

[Brief Recess.]

Chairman GILMAN. The committee will come to order. Will the members please take their seats. Will our audience please take their seats.

When we recessed, we were about to hear from Congresswoman Ileana Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you very much, Mr. Chairman.

Chairman GILMAN. Would the gentlewoman withhold a moment until the aisles are cleared. Would the gentlemen please clear the aisles. Please proceed.

Ms. ROS-LEHTINEN. Thank you, Mr. Chairman.

The Hamilton amendment effectively guts section 302 and the Hamilton amendment might make a good complement to language already in Title II, but as it is written, it removes an essential part of the Helms-Burton bill.

Unlike the current language, it does nothing to stop the ongoing exploitation of property confiscated from U.S. nationals and it does nothing to hasten the end of the Castro regime by denying him the capital that he is using to survive and to repress the Cuban people. The Hamilton conditions are very weak and a poor substitute for the right of action for several reasons.

Unlike the current Burton language, it does not require that a transition government do anything to settle claims. It provides a 3-year grace period after a democratically elected government takes power in which to meet these conditions, meaning that the first claims might not be settled under the definitions of this bill for 5 years.

It allows the President to waive this requirement pursuant to a rather common national interest notification and in so doing it forestalls the settlement of even certified claims that have been pending for 30 years or more.

Now, critics I know have been focusing on the fact that this bill creates a new right of action that allows naturalized U.S. citizens to sue those who are exploiting their property in Cuba after this legislation becomes law. The administration has observed that extending this right to naturalized U.S. citizens is difficult to defend because it goes beyond what they call customary international law.

But the committee counsel, the staff of the Judiciary Committee, and the Chairman of the Judiciary Committee have carefully looked at this bill and they believe that this right of action is legally sound. We have had several meetings with them and they say this is not going to be a problem.

And this bill flatly challenges the suggestion that international law protects the right of the Cuban regime and third country companies to exploit property that was confiscated in violation of both international and Cuban law. And in so doing, it is the intent of our legislation to protect the property rights of all U.S. citizens and perhaps shape international law for improvement.

This amendment also deletes a provision that will have a profound and chilling effect on those who exploit stolen property and then come to the United States to invest or spend their ill-gotten proceeds.

The key provision of this bill which has been proved in consultation with the Judiciary Committee Chairman and his staff says that "the Secretary of State shall exclude any alien entering into the United States after the date of the enactment who," and all of those specifications and we will get to that part of the amendments later, but that is very important for the committee members to know that the Committee on Judiciary has looked at this.

We have, in fact, looked at the careful recommendations made by the administration, changes that they suggested making. They are incorporated into the bill and the administration one day said this is what we want. We have incorporated much of that language and now they say that is still not good enough. And as I say, the Judiciary Committee has carefully looked at this. They believe that this proper provision can pass a court challenge.

Thank you, Mr. Chairman.

Mr. BURTON. Would the gentlelady yield briefly?

Ms. ROS-LEHTINEN. Yes.

Mr. BURTON. Part of the Hamilton amendment which refers to denials of visas to confiscators of U.S. property is consistent with what we have already done in last year's State authorization bill with respect to drug traffickers and their families. It already is law. There is a complaint about that provision of the bill which is already being done in current U.S. statutes.

Ms. ROS-LEHTINEN. And if I could reclaim my time, that part of the bill was also cleared with the Judiciary Committee. They believe that the precedent has been established in other law and in other court cases and we welcome any court challenge to the provision of property confiscation and alien exclusions in our bill. We welcome them and we believe that we can hold our ground and it does not violate international law.

Chairman GILMAN. Mr. Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman, very much.

My colleagues, imagine a situation where your home, your property or your business was operated by your family for generations. You are forced in exile into a new country and you see the products of that land or that company being sold around the world for profit.

To compound the problem, you see the people who now possess that stolen property visiting your own new home, the United States, to do business. They are in New York or Washington or Miami routinely, selling the goods of your confiscated property.

The legislation that our subcommittee brings to you today is a practical response to that real problem. I have heard many members, particularly of the Majority, in the last few months on the Floor of the Congress talking about the need to protect property owners from the U.S. Government.

Confiscations, intrusions. We bring before you today the ultimate intrusion upon the property of an American citizen. Not a regulation of the U.S. Government, but an absolute total seizure without compensation by Fidel Castro, period.

Now, I recognize that the administration has had some legitimate considerations in the practical application of this law. But it is to my profound disappointment that after weeks of attempting to accommodate the administration's legal concerns we are today addressed with a criticism that is an attempt to legislatively disassemble this legislation.

In the draft of the legislation that Mr. Burton brings us today, against what I would like to have seen, we have made accommodations. We have rewritten the section on visas. We have redefined the sections on trafficking to accommodate the administration. Not because we wanted to do so, but we wanted you to be happy with it.

The visa requirement that Mr. Burton brought before us originally included all stockholders, employees, all positions of people of authority and in any corporation that seizes American property. We changed that for you to be directors, people in policy positions, senior officials of a corporation. We did that for you.

We wanted broadly to have a trafficking position for any confiscated property, any product of it. We narrowly defined trafficking to accommodate you. I think we met you more than halfway.

Now you raise several additional problems. First, you would have us change this legislation only to include, as I understand it, people who became Americans after a date certain. That is at complete variance with everything I know, believe, and understand about our country. You would create two classes of American citizens. Oh, if you were an American citizen and you were born here and lived here in the 1950's, you have full rights to the protection of your private property. But if you arrived here after a date certain, you no

longer would enjoy those rights. I don't believe any person on this committee would be part of creating classes of American property ownership.

These Americans did not come here voluntarily to seek new property rights. Take that out of your mind. Nobody came here in 1962 in order to get the right to sue. They didn't come to the United States voluntarily. They left for their lives, to protect themselves and their families. Only by virtue of them now involuntarily being here do they get any property rights. We cannot change that date.

Second, we are only doing for individual American families what the U.S. Government has always done for corporate America. When the Chilean Government seized the mining rights of American corporations in Chile in the early 1970's, this country did everything to extend the right to sue, to seize property, to take the product of the mines. No effort was too great for a Fortune 500 corporation.

Now we would simply do the same for an individual American family and business that we have always been willing to do for corporate America. Now, is the administration right that this would create litigation? Absolutely. And I don't apologize for it. That is what the Federal Courts are for.

And an American citizen has their property seized. It is being re-sold illegally. And we are creating a right of action. That is exactly right. That is exactly our intent. And if the Federal Courts are busy as a consequence for it, they are meeting their responsibilities.

Mr. Chairman, I believe that we have fashioned a reasonable response to a real problem. We have tried to accommodate the administration. But I want to remind my colleagues what we are responding to. Fidel Castro passed Public Law 851, the property of any American citizen will be seized, becomes public property, and there is no compensation. That is the law of Cuba. Do not come to this committee and ask us to be accommodating to Cuba or international laws.

These citizens of the United States have no recourse. It is not as if there is a forum in international law that the Cuban courts will take a claim for the confiscation. They are without remedy. What you do today is provide them with the only practical remedy available. And so we exclude people who have illegal American property from coming to the United States. That is the just and the right thing to do.

Chairman GILMAN. If the gentleman will wind up, his time has expired, but we will allow the gentleman an additional minute.

Mr. TORRICELLI. And we create a right of action because they have no other right of action and we totally reject the notion that we will differentiate between naturalized American citizens and birth American citizens in their rights before the Federal Courts. I can think of nothing that would be more undemocratic.

Mr. WYNN. Would the gentleman yield?

Mr. TORRICELLI. I would be happy to yield.

Mr. WYNN. Could this result—I am not necessarily hostile to the language in the bill but I am curious, could this language result in liability against a transition government in Cuba?

Mr. TORRICELLI. What we have—I think the answer to your question is, yes, and purposely so, Mr. Wynn. Our purpose here is in

a political matter. We have all hope and believe that when Fidel Castro leaves office that a Jeffersonian democracy takes root in Cuba. I think you would concede me the point that may not be the case. It is essential there be an element of pressure on a new Cuban Government that they understand that they, like the East German Government, like the Russian Government, like the Vietnamese Government must come forward and deal with American corporations, American citizens, and the Cuban people themselves.

Under this provision, that pressure exists: Settle these claims. I am sure there will be an international fund to do so. Deal with these problems. Keep that pressure on. If you strip this bill, if you gut this provision—because frankly, if Mr. Hamilton's amendments are taken, we might as well all go home. The bill means nothing. I won't even vote for it. You must keep this pressure on a transition government. And that, Mr. Wynn, is why the answer to your question is yes, there may be, and purposely so.

Chairman GILMAN. Mr. Wynn, we will recognize you for 5 minutes at this time.

Mr. WYNN. Thank you, Mr. Chairman.

Actually, I am concerned about the answer that the gentleman gave in that I am very supportive of the day when we will have a transition government but I would not like to see that transition government as opposed to, let's say, commercial businessmen or foreign nationals who are trading U.S. property. I would not like to see that transition government burdened with these claims that they played no part in creating, particularly since I think we all envision giving a considerable amount of aid to this transition government so we might well find ourselves in the position of providing U.S. assistance to the transition government of Cuba only to have those funds paid back to individual claimants, which is not what I think we were envisioning. You said there may be an international fund and if so then my concerns are allayed.

Mr. TORRICELLI. Would you yield momentarily?

Mr. WYNN. Sure.

Mr. TORRICELLI. That is exactly I think the common concept. From settling claims today in East Germany to the problems of Vietnam, inevitably funds will have to be raised to deal with some of these confiscations. If there is a democratic government in Cuba, that unmistakably is what happens. As we just did in the West Bank, the Japanese, the Europeans, the Americans put money in a fund to help accommodate.

What is critical is that if this Government is not democratic, we are not going to want to provide that money. They should have this element of pressure on them to comply with international law to have settlements. That is why rather than a liability I think this provision is an asset to help move a new Cuban Government to be more democratic and to deal with the international community, and I thank you for yielding.

Mr. BERMAN. Would the gentleman yield?

Mr. WYNN. Yes, I will yield.

Mr. BERMAN. On the one issue of liability of successor governments, there I think—actually, I hate to acknowledge it, but I think Mr. Burton is correct. I think a successor government should have responsibility for the previous government's confiscations or

violations of human rights. I spent a great deal of time in the late 1980's trying to make sure that the successor Chilean Government had liability for the Pinochet government's decision to send its agents out to assassinate Orlando Letelier in a Washington human rights case. I think it is appropriate, I think it is appropriate on that one—on that issue to have a successor government liable.

Mr. WYNN. With all due respect, I would like to reclaim my time because it is going to run out and yield to Mr. Torricelli.

Mr. TORRICELLI. Mr. Wynn, there is one point of clarification I wanted to make to you and the members of the committee. Under the legislation, when and if there is a democratic government in Cuba which is recognized, this right expires. We are creating the right because currently people have no forum. You cannot sue in Cuba. Castro will not allow it. When there is a democratic government, the right expires. Their people's remedy is to go to the courts of a democratic Cuba. I wanted to add that clarification.

Mr. WYNN. OK. Well, I certainly appreciate that. I see my time is about to expire. I disagree with my colleague from California. I think it would be unfair for a democratically elected government in Cuba who bore no responsibility for these confiscations to then have to try to pay off these liabilities with the scarce assets that they are going to have, particularly if those scarce assets include funds that U.S. citizens contribute for economic development purposes, even if those funds were contributed in the context of an international pool of money. So I certainly do hope that those claims would expire as to liability against the democratically elected government.

Chairman GILMAN. Thank you, Mr. Wynn. Mr. Menendez.

Mr. MENENDEZ. Thank you, Mr. Chairman.

Mr. Chairman, let me try to de-obfuscate what went on here before we broke. And we heard a lot—I am a lawyer and I know that that is an abhorrent name around here to some, but the fact of the matter is I heard a lot of legal mumbo-jumbo. A great way to create a web of confusion. Let me try to deconfuse the issue.

You are sitting in Toronto and you pick up a brochure that says the Alimondes Refinery in Santiago, Cuba, is up for sale. Guess who owns it? Texaco, a U.S. company. Now, somebody buys the Alimondes Refinery, which is really Texaco's company, and that person or entity or corporation that bought it is here in the United States doing business, has property, has goods, has resources.

Should we not give the American citizen, the American corporate entity the right of a cause of action against that person or entity of the United States to be able to reclaim the tort action that counsel talked about? Not title, not the deed to the property, but the tort action of recovery for the damages of property that was illegally confiscated.

That is what this is all about, despite all the mumbo-jumbo. This is not about title. It is about injury to an individual or to a company and to be able to reclaim that injury.

Let me address the question of exploding litigation. The fact of the matter is if you have no person or company in the United States for which to sue, it is highly unlikely for that person or company to have resources that you can attach to ultimately pay you, then why are you going to spend and spend thousands of dollars

for it? You are going to have not an explosion but some high profile cases.

And it is working already, even before we pass this law, just the suggestion. Let me give you an example and we are here not only to make foreign policy, but part of our foreign policy is to promote U.S. interests. Congressman Diaz-Balart has sent us all a Dear Colleague letter with an article by the Miami Herald. In that article it says, BHP, which is a giant Australian mining company, was hoping to buy a nickel plant once owned by U.S. interests and nationalized by the Cuban Government in the 1960's. But because of a simple threat of the Helms-Burton legislation, that plan has been derailed by the giant Australian mining company to take over the U.S. mining company's property that was illegally confiscated.

That is what this is all about. It is about giving a cause of action in the Federal Courts to an American citizen or an American company after someone who they can get something from. Otherwise, there is no use to sue to be able to attach the goods, the property, or the bank account of someone who has illegally purchased their property.

Clouded title—for those of you who are lawyers—what is more clouding than that every time the property shifts from hand to hand by someone who has purchased illegally confiscated property? That clouds it even more. That is not the issue. This is not about getting title. This is about getting a redress of grievances in the court for money, for damages.

And lastly, let me just say, a citizen of the United States is a citizen of the United States. Since when do we start creating two classes of citizenship in terms of people's rights for causes of actions? I urge my colleagues to defeat this amendment.

Chairman GILMAN. Is there further debate? If there is no further—

Mr. HAMILTON. Mr. Chairman?

Chairman GILMAN. Mr. Hamilton.

Mr. HAMILTON. I would like the administration—and I regret I wasn't here for a lot of the debate. I couldn't avoid that—but I would like to have them comment further on the arguments Mr. Menendez and others just made.

If I recall the testimony of the administration, and I am not sure I do recall it all, but you said that, among other things, this provision as it is in the bill is going to prejudice existing claimants, 5,900 claimants now. You are going to expand that number very significantly. That means you certainly will prejudice existing claimants, the 5,900. There is going to be a large—much larger—number of claimants. You said there is going to be a proliferation of lawsuits. I think you said the legislation would discourage lump sum settlements.

You heard the debate here. I would like to give you an opportunity if you would to respond to some of these charges. I was not here. They indicated one of the problems with my proposal is we create two classes of claimants and so forth.

Could you comment on each of those?

Mr. BURTON. Mr. Chairman?

Chairman GILMAN. Mr. Burton.

Mr. BURTON. I know we are under severe time constraints and I think this issue has been debated rather fully. I do not object to the Ranking Democrat member of the committee asking these questions, but could we have this expedited as quickly as possible so we can dispose of this amendment?

Chairman GILMAN. Would counsel be brief.

Mr. BERMAN. Mr. Chairman, there are others who seek to speak on the amendment and ask questions on the amendment.

Mr. WEINER. Allen Weiner, attorney-adviser, Office of the Legal Adviser, State Department. I think Mr. Burton's comments were perhaps motivated by the length of my last comments. I will try to keep it shorter.

On the question of the proliferation of lawsuits, I am responding to your concerns, Mr. Hamilton. I believe that many claimants would come into court, even if they could only obtain a default judgment. Such a judgment might have considerable value down the road in trying to leverage one's way into negotiations with foreign companies over efforts to recover or obtain money for properties in Cuba.

I think there is a very good chance, although we can't predict with any certainty, that we will see a significant number of lawsuits.

On the question that Mr. Torricelli raised, I want to be clear—

Mr. HAMILTON. May I interrupt you? I know very little about these claims procedures, but what is striking about Title III is that it allows those who became U.S. citizens after their property was nationalized or confiscated to make claims. Is that your reading of it? Is that a normal thing in this claims process?

Mr. WEINER. Mr. Hamilton, what is unusual is the idea of creating a lawsuit which applies to properties which are physically outside the United States. If we were negotiating a claims settlement agreement, we would look at whether an American was injured when the wrongful conduct—the taking of property—occurred.

In that regard, we would look at the nationality of the claimant at the time of the taking. The bill now reflects that approach to the claims settlement process, although I think there may still be considerable difficulties in trying to negotiate with the Cuban Government in view of the fact that many of the certified claimants could have judgments either fully or partially enforced or default judgments.

The basis on which we would be creating jurisdiction would be the idea that an American national is injured. But from an international law standpoint, the injury that we are concerned about is the wrongful taking of the property. That is why it is unusual to look at the nationality of the person today.

With regard to Mr. Torricelli's comments, I want to be clear—

Mr. TORRICELLI. Mr. Chairman, could you yield on this, as he answers, to me?

Mr. HAMILTON. Sure.

Mr. TORRICELLI. Is it unusual or unprecedented?

Mr. WEINER. Well, settling claims of persons who were foreign nationals, at the time of the taking is unusual. Particularly when read in connection with the assertion of jurisdiction—

Mr. TORRICELLI. My point to you is what you would do to Cuban Americans is not unusual, it is unprecedented. These are American citizens who have no other forum to redress their grievances and you would make them an exception to the laws of United States to be able to get the compensation.

Mr. WEINER. Not true. Our view, Mr. Torricelli, is that there are very, very serious policy and legal problems with the creation of the cause of action, period. The distinction there is—

Mr. TORRICELLI. Let me ask you this. This class of people you would create who arrive after the resolution of lost property, what forum would you have available?

Mr. WEINER. Again, we would not draw this distinction. The distinction about whose claims we would settle in the claims settlement agreement is long-standing. We have always settled claims of persons who are U.S.—

Mr. TORRICELLI. We are dealing with a practical legal matter. As you would have this bill changed, what forum is available for an American citizen who has lost their property?

Mr. WEINER. The State Department's position is that the real resolution to the property issue is the return of the property to the people from whom they were taken.

Mr. TORRICELLI. You are not answering my question, since that isn't going to happen. The answer you are providing to me is that you will create a class of American citizens who have no forum and no opportunity to have their grievances addressed.

Mr. WEINER. Mr. Torricelli, I believe the day will come when that will happen. I believe the State Department will work very hard for that day.

Mr. TORRICELLI. That is a political outcome we all hope for but that is not a legal answer. The legal answer is you would create a unique class of American citizens who have no forum in which to redress an illegal taking of their property.

Mr. WEINER. The law is full of distinctions, Mr. Torricelli, and certainly if—

Mr. TORRICELLI. This is one we can do without.

Mr. WEINER. Exactly.

Mr. TORRICELLI. You want to ask me a question—

Mr. WEINER. This law will create a distinction between those whose property has been invested in by foreign businesses and those whose property has not. Title III still leaves many people without recourse.

Chairman GILMAN. Mr. Torricelli, our time is running.

Mr. TORRICELLI. Mr. Chairman, he wants to ask me a question.

Chairman GILMAN. We expect to vote momentarily.

Mr. TORRICELLI. Do you want to ask me, or does that solve it?

Mr. WEINER. No, I said I want to try to respond.

Chairman GILMAN. Mr. Berman.

Mr. BERMAN. Thank you, Mr. Chairman.

The issues raised by this amendment are at the heart of the bill.

Chairman GILMAN. If you would please be brief so I can get to the amendment.

Mr. BERMAN. No, Mr. Chairman. You can do whatever you want with my time, but there are some—I don't know what else is in store in terms of the bill, but you are coming back on Tuesday, and

I think it is important to explore these issues. I want to try and understand this better, and I am quite serious, sincere, about this.

I am not persuaded by the State Department's opposition to the title, because they oppose anything which confers jurisdiction on U.S. courts against—I mean, it is boilerplate, knee-jerk, automatic reaction from the State Department. They want everything to be done through diplomatic interventions and espousals and government-to-government basis and nothing to go through the courts.

In the terrorism bill that came out of Mr. Hyde's committee is an amendment which creates jurisdiction in the U.S. courts for victims—Americans who have standing, victims of terrorism, of hijacking, of kidnapping by foreign governments or their agents. We create this jurisdiction. This State Department opposes that amendment. We provide exception to the Foreign Sovereign Immunities Act.

While I consider those fundamental violations of life and liberty to be perhaps at a higher order of property, the fact is, a property claim is a legitimate one, and the notion that we are conferring jurisdiction on people to try and seek remedies. But I have a few questions.

Maybe, Mr. Rademaker, I will ask you, if that is all right, who is the defendant in these—in these actions? Is it the company now holding the property? Is it the government that confiscated the property? Who is the defendant?

Mr. RADEMAKER. The answer to those questions is found in the definition section of the bill. I would expect that in the typical case the defendant would be a foreign investor who went into Cuba, acquired a leasehold interest or actual title to property, and then subsequently somehow exposed himself to U.S. service of process.

Mr. BERMAN. In order to prevail against that kind of a defendant, do you have to demonstrate that that defendant knew that he was buying interest in or property owned by one who—from whom it was confiscated?

Mr. RADEMAKER. The definition of trafficking requires that the action be knowing and intentional on the part of the trafficker.

Mr. BERMAN. So the only potential eligible defendant is someone who knew he was getting this—this deal on someone else's property.

Mr. BURTON. Will the gentleman yield briefly on that point?

Mr. BERMAN. Sure.

Mr. BURTON. The bill is very specific. It says this takes effect six months after the enactment of the bill; and I would submit that six months after the enactment of this bill, any company that is going to buy property in Cuba is going to be very thorough in investigating whether or not that is confiscated U.S. property.

Mr. BERMAN. You mean there is no retroactive application in terms of previous purchases? There is no liability conferred on people for acts already taken?

Mr. BURTON. Mr. Rademaker?

Mr. RADEMAKER. Yes, sir, Mr. Berman, that is correct. The bill contains what amounts to a six-month grace period. The rationale for that is that you will have individuals who are investors now in Cuba and who may want to get out as a result of the enactment of this legislation, and the idea is to give them a period to dispose

of their investment in Cuba, and then only 6 months after the date of enactment would the prospect of liability arise under the legislation.

Mr. BERMAN. All right.

Mr. HAMILTON. Will the gentleman yield?

Mr. BERMAN. Sure.

Mr. HAMILTON. I think all of us are struggling with this, and I think we want to try to do the right thing. But are you taking the position, Mr. Rademaker, that this provision in the bill will not lead to a proliferation of lawsuits, will not prejudice existing claimants, will not discourage lump-sum settlements, will not cause chaos in the visa process?

I mean, I know these are all claims that the State Department people have made, but your view of this—and I gather you are speaking for the majority here—is that none of these consequences flow from the language of the bill.

Mr. RADEMAKER. As counsel to the committee, I am a bit reluctant to make predictions about the volume of litigation that might arise as a consequence of enactment of the measure. I guess I am prepared to say that I see no legal basis for the assertion that the possibility of litigation pursuant to section 302 would somehow cloud title to property in Cuba. I don't understand the basis of that argument.

Mr. HAMILTON. I don't think I made that argument. Maybe someone has.

Mr. RADEMAKER. I have heard that argument made.

Chairman GILMAN. The gentleman's time has expired.

Mr. BERMAN. Mr. Chairman.

Chairman GILMAN. Is there further debate?

Mr. BERMAN. I'm sorry. Could I ask unanimous consent to have 5 extra minutes? I need—I want to go through—

Chairman GILMAN. I am concerned about the vote. We would like to have a vote on the amendment. The vote on the floor is about to come up. I will give the gentleman two—

Mr. BERMAN. Let me ask—

Chairman GILMAN. I grant the gentleman two additional minutes.

Mr. BERMAN. Well, if I might just ask the chair, this is at the heart of the bill.

Chairman GILMAN. We all—

Mr. BERMAN. Mr. Chairman, may I just ask you—it is at the heart of the bill—why do we need—we are not going to finish this bill today. I am not doing this to stall. I am not doing this on—

Chairman GILMAN. Mr. Berman, we debated the bill at length. You have 2 additional minutes.

Mr. BERMAN. You had an hour of opening statements. That is what happened.

Chairman GILMAN. You took part in the openings as well.

Mr. BERMAN. No, I did not. But in any event—

Chairman GILMAN. Mr. Berman, proceed. You have 2 additional minutes.

Mr. BERMAN. On the plaintiff side, who has standing to bring these title III actions?

Mr. RADEMAKER. An American citizen with a claim to property that was expropriated in Cuba.

Mr. BERMAN. What about a lawful permanent resident of the United States who is not a U.S. citizen?

Mr. RADEMAKER. The right to bring an action is only available to U.S. nationals, which is defined as—let me double-check the definition—United States citizens or other legal entities organized under the laws of the United States. There is a definition on page 15 of what a U.S. national is.

Mr. BERMAN. So the answer to the question is, a lawful permanent resident could not bring an action under this.

Mr. RADEMAKER. Correct.

Mr. BERMAN. On the visa issue, the visa issue is in title IV?

Mr. RADEMAKER. Yes, sir.

Mr. BERMAN. I am going to hold off on asking you about that. So basically you are saying an American citizen can bring this action and—I have to say to my friend and our ranking member from Indiana, I do find it funny to provide—to propose a bifurcated system that gives standing—is that what happens?—gives standing based on whether or not you are a citizen, naturalized before a certain date or not. Would that be the effect of the amendment?

Mr. RADEMAKER. Of the Hamilton amendment?

Mr. BERMAN. Yes.

Mr. RADEMAKER. My understanding of the Hamilton amendment is that it essentially strips from the bill any right to bring an action or as a consequence of property confiscations in Cuba.

Mr. BERMAN. Well, a requirement for someone with outstanding claims to come—

Mr. RADEMAKER. It strikes the existing section 302 of the bill.

Mr. BERMAN. It does, but it proposes an alternative section.

Mr. HAMILTON. Would the gentleman yield?

Mr. BERMAN. Yes.

Mr. HAMILTON. I want the counsel to comment on that as well, the effect of my amendment. Now, my understanding was that my amendment struck title III but it substituted in its place a Cuba-specific version of current U.S. law on property expropriation. Am I correct about that?

Mr. RADEMAKER. I hope we are working from the same versions of the Hamilton amendment. As I read the amendment, it is basically a prohibition on the provision of U.S. assistance to Cuba unless—that is, assistance authorized by this act—unless Cuba has taken the enumerated steps to provide restitution to property claimants.

Mr. HAMILTON. Would the administration lawyer speak to that point, please?

Mr. WEINER. Mr. Hamilton, I don't—

Chairman GILMAN. Briefly, please.

Mr. WEINER. I am sorry. Allen Weiner, Office of the Legal Adviser, State Department.

This language is substantially similar, not in all respects identical, but substantially similar, to section 527.

Chairman GILMAN. Could you move the mike a little closer to you, please.

Mr. WEINER. Yes. It is substantially similar to section 527 of the Fiscal Year 1994 Foreign Relations Authorization Act.

Mr. HAMILTON. So in my amendment I am not creating any new approach here at all, I am just following what is the law today, right?

Mr. WEINER. That is correct.

Mr. HAMILTON. And, indeed, they are creating a new class, are they not, of Cuban claimants that go in front of all other kinds of claimants?

Mr. WEINER. It creates a new group of people who would have an opportunity to obtain recourse in U.S. courts.

Mr. HAMILTON. They are actually the one creating a new class of claimants, not me. I am going back to what the law already is.

Mr. ROHRABACHER. Mr. Chairman, I ask for regular order. We have heard these arguments. I mean the fact is, to the distinguished ranking member, we have heard your arguments, and we have heard the arguments on this bill, and the point you are making I think you made earlier, and—

Mr. BERMAN. This is not argument, Mr. Rohrabacher, this is a question.

Mr. ROHRABACHER. Well, I am calling for regular order.

Chairman GILMAN. Well, the gentleman's time has more than expired.

Mr. BERMAN. I ask unanimous consent for 5 additional minutes for continuing questioning of the counsel to learn—

Mr. BURTON. Mr. Chairman.

Chairman GILMAN. Mr. Burton, do you object?

Mr. BURTON. I reluctantly object. I would never do this under ordinary circumstances, but we are going to have a vote, and I think if we don't vote on this today we are going to have to rehash this again when we come back. This is a provision that has been adequately discussed and debated.

Mr. ENGEL. Mr. Chairman.

Chairman GILMAN. Who is seeking recognition?

Mr. Engel?

Mr. ENGEL. Yes. Thank you, Mr. Chairman.

Chairman GILMAN. For what purpose are you seeking recognition?

Mr. ENGEL. I would like to seek recognition.

Chairman GILMAN. Are you asking to speak on the amendment that is before us?

Mr. ENGEL. Yes.

Chairman GILMAN. The gentleman is recognized.

Mr. ENGEL. Thank you.

I do not support the amendment, but I believe very strongly that if Mr. Berman feels that there needs to be further questions, I will yield the rest of my time to Mr. Berman.

Chairman GILMAN. Mr. Berman.

Mr. BERMAN. Thank you, Mr. Chairman.

I am quite sincere in saying—and I know, Mr. Hamilton, we are trying to understand the implications of both the language in the bill and the amendment on an important issue which is at the heart of the bill. This is not an effort to stall, and you say you are coming back in a week from Tuesday. There will be no effort to

delay this. We just want to have a full discussion and understand it.

Mr. BURTON. Would the gentleman yield?

Mr. BERMAN. I will.

Mr. BURTON. This question was answered before. This bill does create the same right and cause of action for Naturalized Americans as any other American citizen has. Right now the naturalized Americans do not have that right.

Mr. WYNN. Will the gentleman yield?

Mr. BERMAN. Yes.

Mr. WYNN. I want to ask the question of Mr. Rademaker.

Chairman GILMAN. If the gentleman will hold, we are now on a roll call vote on the floor. We are going to vote, and it apparently is the last roll call. We are going to vote on this amendment before we leave for the vote.

The gentleman has 2 additional minutes.

Mr. HAMILTON. Mr. Chairman.

Chairman GILMAN. Yes.

Mr. HAMILTON. Mr. Chairman, there are a lot of Democrats that are not here and are under the understanding we would not be voting today. That is my impression. I don't know that I have ever done this before, but I just want to make a plea to the chairman. The questions that Mr. Berman and I and others are raising are not designed to delay this. I genuinely don't understand this very well. Maybe the rest of you are a lot smarter on it than I am; I am willing to concede that. I am trying to understand this bill and the implications of it. We all recognize this is a key title of this bill.

Chairman GILMAN. Does the gentleman have an additional question you want to ask counsel?

Mr. HAMILTON. I have a question to ask the chairman.

Chairman GILMAN. Well, please.

Mr. HAMILTON. Mr. Chairman, I respectfully request that you do not hold a vote on this amendment at this time and that when we meet again we be permitted to examine further this amendment.

Mr. TORRICELLI. Parliamentary inquiry, Mr. Chairman.

Chairman GILMAN. The gentleman is recognized.

Mr. TORRICELLI. Is this a unanimous consent request?

Mr. HAMILTON. I am not making any unanimous consent request, I am just respectfully asking the chair to delay a vote. There are all kinds of questions on it. People want to speak. It does not seem fair to me at this point to cut off debate.

Mr. TORRICELLI. Then let's put a time limit.

Mr. HAMILTON. It is simple. It is a simple request. That is all.

Chairman GILMAN. What does the gentleman seek?

Mr. TORRICELLI. Mr. Chairman, to the point, I was unaware that there was any member of this committee who was under the impression that there was not going to be a vote.

Chairman GILMAN. Nor was I.

Mr. TORRICELLI. Indeed, it was my impression that everyone was told that there was going to be a vote.

Mr. HAMILTON. Mr. Chairman, I have different information, but I don't really want to quarrel about that.

Mr. TORRICELLI. Nor do I.

Mr. HAMILTON. I am making a request of the chairman. That is all I am doing. It is perfectly within his prerogative to say no. I appreciate that.

Chairman GILMAN. Mr. Hamilton, will you make that by way of a unanimous consent?

Mr. HAMILTON. No, I am not making it by way of a unanimous consent request, I am simply making a request of the chairman that he delay the vote. That is all I am doing. You have the right to deny it. I acknowledge that right, but that is my question.

Chairman GILMAN. Mr. Torricelli, you may proceed.

Mr. TORRICELLI. Mr. Chairman, first, with all due respect to the gentleman from Indiana, we have worked to assure the people who I felt supported our respective positions were here. They have been through an extensive debate that has been informative. We have an expert witness here who has testified to it. I personally would hope that we would proceed.

And, by way of conclusion, for my own part of this, I want simply to say this. We have discussed the legal issue in great detail. In the final analysis, there is more to this than a legal issue. We are in the very end of a 35-year life and death struggle.

As Mr. Menendez has just demonstrated, even the prospect that this vote was going to take place today is preventing Fidel Castro from selling valuable assets. This man is gaining time for his dictatorship by getting millions of dollars from selling stolen American property. We have a chance today to end it. The timing is important. The message is going to be heard.

With all due respect to my colleague from Indiana, for whom I have the highest respect, I believe members were under the impression there was going to be a vote. I personally hope we can proceed. When we return, the bill is still before the committee. There are a number of other issues.

Mr. Chairman, I thank you for yielding.

Chairman GILMAN. Mr. Hamilton, if it will accommodate the Minority, we will be pleased to come back after this vote and proceed until—

Mr. SANFORD. No, no.

Mr. BURTON. Roll call.

Chairman GILMAN. Mr. Hamilton.

Mr. HAMILTON. I realize you are on the spot, and I appreciate it, but I have a request that is a sincere one, and I suspect what I should do is to withdraw my amendment at this time with the understanding that I will be able to offer it or something similar to it when we next meet.

Chairman GILMAN. The gentleman withdraws his amendment.

Mr. MENENDEZ. Mr. Chairman, a procedural question on the point of order.

Chairman GILMAN. Are you withdrawing the amendment?

Mr. MENENDEZ. Mr. Chairman, a point of order.

Mr. HAMILTON. I am withdrawing the amendment with the understanding that I can offer an amendment at a subsequent time on this topic.

Mr. MENENDEZ. Mr. Chairman.

Mr. TORRICELLI. Mr. Chairman.

Mr. WYNN. Parliamentary inquiry.

Chairman GILMAN. The gentlemen——

Mr. WYNN. Parliamentary inquiry.

Chairman GILMAN. Since the gentleman is withdrawing his amendment, I will ask for unanimous consent that the gentleman be allowed to resubmit his amendment when we reconvene on Tuesday.

Mr. BURTON. Point of order. Point of order, Mr. Chairman.

Mr. WYNN. Parliamentary inquiry.

Mr. BURTON. Point of order, Mr. Chairman.

Chairman GILMAN. I recognize the gentleman on his point of order.

Mr. BURTON. As I understand it, once an amendment is presented, either here or on the floor, it takes unanimous consent to withdraw the amendment. Is that not correct?

Chairman GILMAN. If the gentleman will hold a moment, we will—it does not. I have been informed that it does not require unanimous consent to withdraw. The gentleman has withdrawn his amendment. He can resubmit it when we reconvene. By unanimous consent, we will allow it to be resubmitted on Tuesday with a limited time for debate on the gentleman's amendment.

Mr. BURTON. I object.

Mr. KIM. I object.

Mr. WYNN. Parliamentary inquiry, Mr. Chairman.

Mr. ROHRBACHER. Mr. Chairman.

Mr. WYNN. Mr. Chairman, parliamentary inquiry.

Chairman GILMAN. The gentleman's inquiry. The gentleman is recognized on the parliamentary inquiry.

Mr. WYNN. Mr. Chairman, does it require unanimous consent for a member of the committee to withdraw his amendment and resubmit if the title is not considered?

Chairman GILMAN. No unanimous consent is required.

Mr. WYNN. Thank you.

Chairman GILMAN. The unanimous consent is for a time limit of 1 hour. Mr. Hamilton agrees to that when we reconvene on Tuesday at 10. Without objection, so ordered.

The committee stands adjourned.

[Whereupon, at 1:55 p.m., the committee was adjourned until July 11, 1995 at 10:00 a.m.]

MARKUP OF H.R. 927, THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT OF 1995

TUESDAY, JULY 11, 1995

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 10:07 a.m., in room 2172, Rayburn House Office Building, Washington, DC, Hon. Benjamin A. Gilman (chairman) presiding.

Chairman GILMAN. The committee will please come to order. Members are requested to please take their seats. Will visitors please take their seats?

The Committee on International Relations continues its markup on H.R. 927. When the committee met on Friday, June 30, 1995, an amendment in nature of a substitute to H.R. 927 was before the committee. At that time the committee ordered that the amendment in nature of a substitute be considered as having been read and open to an amendment at any point.

An amendment was offered by Mr. Hamilton that was subsequently withdrawn. The committee agreed by unanimous consent that if Mr. Hamilton offered the amendment he had previously offered or a modification thereof, debate on the amendment would be limited to 1 hour.

Does the gentleman from Indiana now wish to resubmit the amendment or modification thereof?

Mr. HAMILTON. Yes, Mr. Chairman, I do.

Chairman GILMAN. The clerk will report the amendment.

Ms. BLOOMER. Amendment to the amendment in the nature of a substitute offered by Mr. Hamilton. On page 56, strike line 15 and all that follows—

Chairman GILMAN. Without objection, the amendment will be considered as having been read.

[Mr. Hamilton's amendment appears in the appendix.]

The gentleman from Indiana will withhold. The chair would like to speak a moment to the parliamentary situation. The chair has examined the amendment offered by Mr. Hamilton, believes that it is a germane modification of the amendment he previously submitted. Accordingly, pursuant to the unanimous consent agreement of the committee, debate on the Hamilton amendment and all amendments thereto will be limited to 1 hour.

The gentleman from Indiana, Mr. Hamilton, will be recognized for 30 minutes and the gentleman from Indiana, Mr. Burton, will be recognized for 30 minutes.

Mr. HAMILTON. Mr. Chairman?

Chairman GILMAN. If you would withhold a moment? The chair will keep time, and will not charge to either side time consumed in votes in this committee or on the floor. Some of our members will be detained for a while on a previously scheduled meeting at the White House. By agreement with the Ranking Minority Member, we will delay votes pending their return which I understand will not be too late this morning.

The gentleman from Indiana is recognized.

Mr. GEJDENSON. Mr. Chairman, if I could just out of order for one moment raise an issue outside this particular piece of legislation that I know the chairman and members on both the Democratic and Republican side have great concern, and that is the continued incarceration of Harry Wu in China. And I do not want to take up the committee's time today, but I would hope that Mr. Hamilton and you might lead the committee in some effort—there will be an ongoing effort on the floor by a number of us. This is an American citizen who is being wrongly held. The Chinese say they are holding him for state secrets. It is no state secret that the Chinese oppress their own people. And I would just hope that maybe we could get a working group of the committee possibly led by the appropriate subcommittee chairman to make sure that on a regular basis we make note of the Chinese continued wrongful incarceration of Mr. Wu. Thank you, Mr. Chairman.

Chairman GILMAN. I thank the gentleman for his comments.

As you know, the committee did adopt a resolution last week and I will ask the chairman of our Subcommittee on International Operations and Human Rights, Mr. Smith, and the ranking member, and the chairman of our Asian Pacific committee, Mr. Bereuter to prepare an appropriate resolution for this committee. I thank the gentleman for his remarks.

Mr. Hamilton will have the right to open and close debate on this amendment.

Mr. HAMILTON. Mr. Chairman, I want to——

Mr. BURTON. Mr. Chairman, point of order?

Chairman GILMAN. Yes, Mr. Burton.

Mr. BURTON. Did I understand the chair correctly? Mr. Hamilton will open and close debate on this amendment?

Chairman GILMAN. Yes, that is correct.

Mr. BURTON. Thank you.

Chairman GILMAN. Mr. Hamilton is now recognized to speak in support of his amendment.

Mr. HAMILTON. Mr. Chairman, I want to thank you for your cooperation in letting us resubmit the amendment and restructuring it. That is very gracious of you.

The amendment I offer today differs from the amendment I offered at the beginning of the mark-up. The amendment that I offer today merely strikes Titles III and IV. And the purpose of the change in the amendment is to focus debate on why I think Titles III and IV are the wrong approach to the Cuban property issue.

This bill is not about whether someone is a U.S. citizen or when someone becomes a U.S. citizen. This bill is about whether we create an entirely new right to sue in the United States courts, a special right to sue that would be available only to those who have lost property in Cuba.

Do we really want to say that those who lost property in Cuba are somehow more deserving than those who lost property in Germany or Eastern Europe or Vietnam or Russia?

I do not think so.

We have three economic policy interests I think that we have to balance, three distinct interests with regard to Cuba. One is protecting the rights of all Americans who have property claims in Cuba.

Secondly, is to protect the interest of American investors worldwide.

Third is to help the economic viability of a post-Castro democratic Cuba.

The bill seeks to bolster the rights of U.S. property claimants in Cuba, one U.S. interest. I do not think it does that and I will try to make that clear in a moment, but I am quite sure that it harms the other two interests that we have. Now, let me address each one of these interests in turn.

First of all, the bill will damage the interests of Americans with existing property claims in Cuba without a guarantee fair compensation for the new claimants that it would create.

This bill invites anyone who has had property confiscated in Cuba over the past 35 years, whether that person is a U.S. citizen or not, to incorporate and to file a lawsuit in U.S. Federal court. The bill becomes a litigation magnet, the likely explosion of lawsuits means that many more demands will be made on a very limited pool of resources.

Furthermore, the bill undermines current certified claims for Cuban property because it moves the claims settlement process into the Federal courts. The Cuban Government will be reluctant to work out any agreement on certified claims if U.S. courts are simultaneously considering lawsuits because the U.S. Government will not be able to promise—and this is what the Cuban Government would want—a resolution of all outstanding claims.

This bill creates a legal free-for-all. Only the U.S. Government in bilateral negotiations can ensure that the interests of all American citizens are fairly represented. That is why we have a Foreign Claims Settlement Committee that is created precisely for this purpose, to try to protect the interests of all Americans, not just those who can afford a high-priced lawyer. That is how it worked in the Vietnam claims process and that is how it worked in processes throughout Eastern Europe. If you want to be fair to all U.S. claimants, then you have to reject the approach of this bill.

Secondly, the bill will make it harder to protect the property rights of Americans around the world. What we do here is we create a special right to sue for U.S. citizens or corporations that have lost property in Cuba. This bill turns existing; widely accepted international law in this whole business of claims on its head.

If other countries were to follow our example and allow their nationals and their companies to sue in their courts for property in third countries, U.S. investments worldwide would be in jeopardy.

American citizens and firms have very extensive investments all over the world. Many Americans have invested in disputed property in former Communist countries. All of those investments become at risk if the principles in this bill become accepted inter-

national practice. This bill undercuts the ability of the United States to work out bilateral agreements for outstanding property claims, since if the practice for Cuban property is followed elsewhere, no bilateral property agreement would be safe from subsequent litigation.

Third, finally, this bill will damage Cuba's prospects for a successful transition to democracy and a free market system. Since no potential investor could ever be sure whether a particular piece of property had been or could be claimed by an American, they are going to be skittish about making a commitment.

Who is going to invest in a transnational Cuba, that is a risky proposition under the best of circumstances, if these conditions of uncertainty prevail. The vast majority of American claimants will not get justice until Cuba has a government that wants to be helpful and needs U.S. help, economic help.

When the Castro government is gone, helping Cubans build a democratic government and a free market economy will be a top priority and should be a top priority for U.S. foreign policy.

We are not going to be able to pump a lot of aid in there. That is very clear. And everybody is going to be saying, "You have got to help Cuba with private investment, private investment and trade." And Cuba's economic success is going to depend on attracting that investment.

What this bill does, however, is hold out the prospect of litigation against investors even after a new government has taken power.

So to summarize then very quickly, Title III will not compensate those who have lost property in Cuba. It jeopardizes the existing certified claims for Cuban property. It will also jeopardize U.S. claimants and investors everywhere else in the world. It is not going to solve problems. It is simply going to create more problems. Now that is the argument with regard to Title III.

Let me make the argument with regard to Title IV. Title IV is not going to work. It is as simple as that. It is just not going to work. Every U.S. consular officer will have to ask a whole list of new questions for every visa applicant everywhere in the world. Title IV is not limited to Cuban property issues. It applies to property issues worldwide.

What are the questions going to be? Have you ever bought property? Can you prove that the person you bought it from did not confiscate it from someone else? Can you prove that the person they bought it from did not confiscate it from someone else? Are you a principal shareholder in a company that owns property? If so, where is it? Who owned it before you and can you prove it was not confiscated? The questions just go on and on.

These people that hand out these visas have a lot more important things to worry about: drugs, terrorists and all the rest. And no matter what answers the consular officer gets, he or she is not going to be able to verify them. He or she will have no ability to enforce the law. And in the case of visa waiver countries—that is virtually every country in Western Europe, Canada and Japan, the burden of determining property ownership will be on the INS at every point of entry in the United States. So you have got the INS spending its time looking at reams of financial information which it has no ability to evaluate when it is already overburdened and

ought to be focusing on other problems that are much, much more serious.

The lawbreakers in the confiscation of U.S. properties in Cuba are Fidel Castro and other Cuban officials who directed the confiscations. This bill is so broadly written that it just captures a lot of innocent people.

In addition, Title IV violates NAFTA. It violates the Uruguay trade agreements which allow countries to restrict business travel only for public health and national security reasons.

If this provision were enacted, for example, a 30-year old executive for a Canadian company would have to be barred from the United States on national security grounds simply because his company had some involvement with confiscated property back in the 1960's even before that executive was born. That does not make any sense at all.

This is not a theoretical concern, it is not a hypothetical concern I am talking about. The Canadian and the Mexican Governments have both said they consider this provision, Title IV, to be in violation of NAFTA. They are going to initiate a dispute settlement proceeding against us. This visa provision simply cannot work. It captures a vast number of innocent people and I think it will do great harm to U.S. business and U.S. exports.

I urge my colleagues to reject Titles III and IV and to approve this amendment. I reserve the balance of my time.

Chairman GILMAN. The gentleman has consumed 10 minutes.

Mr. Burton is now recognized to speak.

Mr. BURTON. Mr. Chairman, I yield myself such time as I may consume.

Chairman GILMAN. Mr. Burton.

Mr. BURTON. The enthusiasm of my colleague from Indiana is impressive. However, the comments that he has alleged to be factual in his opening statement will not stand the tests.

First of all, if you look at his first argument, on page 15 under section (b),

"Any other legal entity which is organized under the laws of the United States or of any state, the District of Columbia, the Commonwealth of Puerto Rico or any other territorial possession of the United States and which has its principal place of business in the United States."

That refers to businesses.

And the term "United States national" means any U.S. citizen or what I just read.

So the fact of the matter is it is not going to apply to everybody in the world. He indicated that not only would U.S. citizens be able to take legal action to get restitution for confiscated property, but anybody around the world would, opening up the floodgates of litigation. That simply is not the case.

The bill very specifically—

Mr. BERMAN. Would the gentleman yield just for a question?

Mr. BURTON. I will not right now.

Mr. BERMAN. For a question?

Mr. BURTON. Really briefly.

Mr. BERMAN. I thought that the gentleman from Indiana was saying Title IV applies to anybody in the world. Title III allows

someone else to incorporate in the United States in order to be covered.

Mr. BURTON. I think he was talking about the entire section if I am not mistaken. But in any event, the bill specifically limits it to a U.S. national or to a company in the United States, and any other legal entity which is organized within the United States.

Secondly, he spoke about the title of property and how difficult it would be for our embassies and the courts to determine the chain of title. There is no chain of title. The title has never been transferred. When the property was confiscated by the Government of Cuba under Fidel Castro, they started leasing the property in long term lease arrangements. The last person who held title to it legally was the person from whom it was confiscated. That will not be difficult to figure out.

Our embassy has access to lists of all of the confiscated properties, and lists of anyone who buys or leases those properties. It will be very easy for our embassies to determine who they are. We have a computerized system to keep track of this. We are in the computer age. It should not be that difficult.

Regarding the visas that he is talking about and the legal implications that this is going to violate NAFTA—let me read to you: “While Congress has authority to establish U.S. immigration laws is recognized as absolute, we will make clear in the committee report on this bill that Title IV should be implemented consistent with treaty obligations, particularly NAFTA, which requires temporary access of business persons.”

The gentleman makes a very strong argument because of his enthusiasm, but if you look at the bill there is no question that every part of the section to which he alludes can be implemented, and carried out by our embassies around the world regarding visas, regarding confiscated property and regarding the lists that do exist which can let American citizens, let any American entity know who owned the property at the time of confiscation.

And with that—did you want me to yield to you? Let me yield to my colleague from Florida, Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. I thank the gentleman for yielding. I agree with the statements that he made. And I would like to just point out that Mr. Hamilton’s amendment effectively guts one of the most important provisions in this legislation. The provision that is currently in the bill is critical in order to detract foreign investors from investing in Cuba and that foreign investment is Castro’s new lifeline and it is maintaining his regime alive. Castro relies on the foreign investments to substitute for the elimination of Soviet subsidies. Thus, this investment is the element that is helping him maintain power and continue to oppress the Cuban people.

Experts in our committee and in the Judiciary Committee have stated that this section is a legally sound, unlike what the nay sayers claim, and Castro is selling the island piece-by-piece to these unscrupulous investors, yet the Cuban people continue to suffer under his dictatorship. And investors are completely indifferent to the plight of the suffering Cuban people.

The provision that is currently in the bill shows that the United States will not allow foreign investors to continue to exploit the resources of Cuba while they make a quick dollar in the process. In-

vestment only helps Castro. It helps the investors and while none of the benefits go to the people of the island. They continue mired in misery and living in terrible living conditions. This provision in the bill is the key to reducing the diabolical foreign investments that is furthering the suffering of the Cuban people.

American citizens have a right to claim action against those who unlawfully steal their property. And the current provision will drastically reduce foreign investment in Cuba and already we have seen the dramatic influence that this bill and this provision in the bill has had as reported in the Miami Herald. And we mentioned this article when we were last here a week ago. It says, "Cuba's appeal as investment is cooling off." And I will quote certain lines from the article. "Foreign investments in Cuba are slowing because of concerns over a bill in the U.S. Congress that would tighten the U.S. trade embargo. Until recently, Cuba had seemed a growing attraction for foreign investors under an aggressive program launched by a government desperate for hard currencies after the collapse of communism and the loss of Soviet subsidies. But despite more liberal proposals, some foreign businessmen say that they are more concerned about the so-called Helms-Burton bill now before Congress."

And I am skipping some paragraphs, "One Canadian firm called off plans to expand its investments in Cuba and other investors have slowed down their plans to avoid committing any cash before the fate of the Helms-Burton bill is decided. The threat of the Helms-Burton bill has derailed plans by a giant Australian mining company that sells expertise, equipment, and supplies to Cuban-run nickel operations to invest heavily in Cuban plants despite a rise in nickel prices. Fear of U.S. sanctions on foreign investors in Cuba are so high already that not many people are willing to talk about them."

And that is the provisions in the bill that Mr. Hamilton's amendment wants to gut. And that is what is driving foreign investments to rethink what their exploitation is doing. So if we were to gut this part of our legislation, it effectively guts the most important provision.

And I thank the gentleman for yielding and I yield back.

Chairman GILMAN. Mr. Hamilton?

Mr. HAMILTON. Thank you, Mr. Chairman. I yield 5 minutes to the gentleman from California.

Mr. BERMAN. Thank you, Mr. Chairman.

First, if I may just ask a point of parliamentary inquiry? Mr. Chairman?

Chairman GILMAN. The gentleman will state his parliamentary inquiry.

Mr. BERMAN. Is this amendment which seeks to strike almost all of Title III except for some policy language. I gather this amendment strikes Title III and Title IV. Would a request to divide the question be in order?

Chairman GILMAN. No, it would not be in order.

Mr. BERMAN. Then at the very least, I would urge the supporters of the bill and the opponents of Mr. Hamilton's amendment to on their own strike Title IV if they are at all interested in my support, which they may not be because they may be in great shape.

Title III it seems to me, there are a lot of technical questions I have, but Title III does one thing. Its passage is going to depreciate the value of the property that the Castro government would seek to spin off that it had confiscated from Americans, people who are now American citizens.

In that sense, it is a more logical part of an economic strategy to isolate Castro than things like provisions restricting travel of human rights organizations or educational nonprofit groups that stop foreign food assistance or medical assistance to go the Cuban people. Taking Congresswoman Ros-Lehtinen's comments on their face, something which depreciates the value of property that the Castro government hopes to use to benefit itself makes much more sense to me than some of the other aspects of applications of the embargo which seem to punish the Cuban people.

And while I have some technical questions about Title III, I am open to it because it does seem effective in that particular regard.

Title IV is both totally unenforceable for the reasons that the gentleman from Indiana stated and, secondly, it works against what you are trying to do.

First of all, we have been trying to narrow the automatic exclusions to people who pose public health problems or who involve serious criminal conduct. We have been going through a whole effort over the last 10 years to knock down the number of excludables in the visa program, focus on the people we want to keep out, the terrorists, the felons, the people who might have contagious diseases. This opens up massively the potential, as the gentleman from Indiana, Mr. Hamilton, indicated. Mr. Burton, your refutation did not even deal with that argument. Title IV is not limited to people who purchase knowingly and intentionally property confiscated by the Cuban Government.

It is a new worldwide system imposed in a fashion that cannot possibly be enforced. Many of the countries we have visa waiver programs with. There is no way in the world the INS can get this information and, furthermore, you are working against your own goals. Why would you not want the purchaser of property confiscated by the Cuban Government to come into this country so you could serve them with a damned lawsuit and get jurisdiction over him? Title IV really does not make much sense. And since a request to divide is not open, I am going to vote against—I am going to vote in favor of Mr. Hamilton's amendment unless I know that the—unless I know that the authors of the bill are going to separately strike Title IV. Title IV does not do what you want to do. It cannot be enforced. It works against your purposes because it keeps people, if it could be enforced, from coming into the United States where you can get jurisdiction over them to file the lawsuits.

Secondly, I would like to ask Mr. Rademaker just one question. I know my time is just about over.

Chairman GILMAN. Well, the gentleman's time has expired.

Mr. BERMAN. Could I have 30 more seconds?

Chairman GILMAN. I will yield the gentleman an additional minute.

Mr. BERMAN. Is it possible, the gentleman from Indiana suggested it is possible for someone not now—a business entity not now organized in the United States to file corporate documents, in-

corporate in the United States and, thereby get standing under this lawsuit. Is that correct?

Mr. RADEMAKER. I think, Mr. Berman, during the time period between today and the date of enactment of this provision, it would be possible for someone essentially to sell a claim to property in Cuba to a U.S. national, or to, as you suggest, set up a U.S. subsidiary or affiliated entity in the United States and transfer to that entity the claim.

Mr. BERMAN. But could someone whose property was confiscated who was not in the United States or a business entity that is not in the U.S. incorporate in the United States after the enactment of this law and thereby get standing to sue?

Mr. RADEMAKER. No, sir.

Mr. BERMAN. Why? Why do you say that?

Mr. RADEMAKER. If you look on page 59, beginning on line 24, I could read the provision to you. It says, "In the case of property confiscated before the date of enactment of this Act, no United States national may bring an action under this section unless such national acquired ownership of the claim to the confiscated property before such date."

Mr. BURTON. Would the gentleman yield?

Chairman GILMAN. The gentleman's time has expired.

Mr. RADEMAKER. Such date being the date of enactment.

Mr. BURTON. Mr. Chairman?

Chairman GILMAN. Mr. Hamilton has the time.

Mr. HAMILTON. It does not matter.

Chairman GILMAN. Mr. Burton is recognized.

Mr. BURTON. I yield myself just 30 seconds. This is enforceable section. The counsel made this very clear. We must have some time limit enforcement period, so we are not making it retroactive. Only when the bill becomes law does the provision start. So if they can get the job done before we pass the law, then they can get the job done. But after the law is passed, they cannot come into the United States and become a corporation and circumvent the law.

Mr. BERMAN. Would the gentleman just yield for 15 seconds?

Mr. BURTON. Really briefly. Really briefly.

Mr. BERMAN. Yes.

My point is not about the defendant. My point is about the plaintiff. Mr. Hamilton said as part of his argument that a foreign corporation that owned property in Cuba which was confiscated by the Cuban Government, in order to take advantage of this law, could after the effective date of this law file incorporation papers in the United States and thereby get standing.

Mr. BURTON. The answer is no.

Mr. BERMAN. I think your comments were related to the issue of the defendant and what happens. And I think Mr. Rademaker's were as well. And I do not think you have addressed Mr. Hamilton's argument here.

Mr. BURTON. Mr. Rademaker?

Mr. RADEMAKER. I think the answer to your question, Mr. Berman, is found on the bottom of 59 and the top of page 60. Under the facts that you suggest, the U.S. national which is to be set up would not have owned the claim to the confiscated property prior to the date of enactment and, therefore, would not—

Mr. BERMAN. No. They owned it in 1955.

Mr. RADEMAKER. But the U.S. national—under your hypothetical—the U.S. national was not set up until after the date of enactment, and so the U.S. national—which if I understood your hypothetical correctly, the U.S. national was established, incorporated subsequent to the date of enactment and—

Mr. BERMAN. But ownership to the claim, I assume, refers to the claim to the property not the standing to sue. That is where I think your answer—you point to that section, they owned a claim to the property before 1959.

Mr. RADEMAKER. But they were not a U.S. national.

Mr. BERMAN. Right. And this says, "Unless such national," first, the corporation is a national now because it is after the bill has been passed. It incorporates in the United States and now it is a U.S. national. It is a person within your definition. It owned the claim of ownership before that time.

Mr. RADEMAKER. As I understand your hypothetical, that is not correct. Perhaps the foreign affiliate—the foreign parent—of the U.S. national owned the claim, but the U.S. national did not own the claim because, in fact, the U.S. national did not exist on the date of enactment.

Chairman GILMAN. Mr. Burton has the time.

Mr. BURTON. Yes. That was a pretty long 15 seconds.

Let me yield to my colleague from California for one minute, Mr. Rohrabacher.

Mr. ROHRABACHER. Just briefly.

You know the history of communism is replete with examples of capitalists who go and cut deals with these dictators. You know, they are probably the worst example of what, if you can call it free enterprise, it is not really free enterprise, it is phony capitalism in which people are willing to cut deals with the devil in order to make money. And we have seen this, these vultures and these scavengers plucking the meat from communism's victims for the last 70 years.

What we are trying to do here is get at that problem. These are really the scum of the globe who come in and cut deals this way in order to make money off tyranny. And I recognize that Mr. Hamilton feels that it is undoable, this is an unworkable solution and it is going to backfire on us. I do not believe that is the case. I believe this is a good faith effort to get to the problem and basically I do not believe that private investment will be hurt by this. In fact, what we are saying is that private property owners, once they get into Cuba in a legitimate way are going to be guaranteed that private property will be respected in the future because no longer will the United States tolerate capitalists going in and cutting deals on stolen property which is basically what we are talking about.

Chairman GILMAN. The gentleman's 1 minute has expired.

Mr. Burton?

Mr. BURTON. I yield 5 minutes to my good friend, Mr. Torricelli.

Mr. TORRICELLI. I thank the gentleman for yielding.

My colleagues, it appears to me that the committee has before it four basic facts and legislation which offers a solution to each.

First, not simply by policy, but as a matter of formal Cuban Government law, property belonging to citizens of the U.S. Government by the signature of Fidel Castro was permanently seized without compensation. Every piece of land, every piece of stock, every property, every home was seized and held by the Cuban Government without compensation, in clear violation of U.S. and international law.

Second, foreign nationals taking advantage of the current economic situation in Cuba are themselves seeking opportunities by purchasing this confiscated property and reselling it in the world market. Fidel Castro is using this opportunity to buy time for his bankrupt regime. The money he cannot earn legitimately in international trade, he is attempting to gain by selling the property of people we represent in this Congress.

Third, American citizens who are so abused have no forum. If they could go to a Cuban court and file suit, they would. If there were another forum where they could go and address this grievance, they would have a long time ago. They have no forum. They have no place to go.

Fourth, as if to add insult to injury, American citizens who have now lost all this property see foreign nationals come to the United States on the invitation of our government with a visa issued by the U.S. State Department to come here and do business.

You may have lost your family's property that you owned for generations, stolen by Fidel Castro, walk down the street in New York and find a Spanish or Canadian businessman there selling the property or the wares of it that you used to own and never got compensation. Those are the facts.

Now the question before the committee appears to me is, what are you going to do about it? So far we have done very little.

The State Department has clearly recognized that there is a problem here. They have sent warnings all around the world to all of our embassies warning foreign nationals and governments, "Don't buy this property. Some day we are going to seek compensation. It is illegal. It is not right. It is against the interest of this government. Do not do it."

We have recognized the problem. So we are over the threshold of getting involved. The question before the committee is not whether you want to get involved. The U.S. Government recognized the law has been violated, do you now want to come up with an answer that really works or just pretend you are doing something? That is the question before the committee.

Now, the administration has come to us and said, "Make it a more workable answer." And so we have. We have narrowed the definition of trafficker to make it what they think is workable. They thought the visa requirement was too broad. They could not enforce it. So we took their suggestions, we narrowed it so it would be workable and enforceable.

But now the critics come back and they say, "Well, that is not enough. Now, you have got to separate out American citizens, those who are naturalized, those who were born here." Now they have gone too far. No more. No more changes. We are not going to separate out Cubans who came here and became naturalized and make them a second class of citizens.

This Congress did not do that when Italians sought retribution for seizures of the Fascist government. We said, "No. No matter when you came here, same rights." And the Czechs when they came here after the Communist takeover, the same argument was made in this Congress and we said, "No. Same rights." And now we do it again. There will be no separation.

Cuba at some point is going to have to come to terms with the fact that it stole the property of American citizens, just like the Chinese and the Russians, all other Communist governments. Even to those who want to put this off, you do them no favor. It has got to be dealt with now because if you allow this to go on another year, Castro will sell all the confiscated property. And after Castro's government, it will no longer be a question of simply taking the property from the Cuban Government and giving it back to private corporations. We are going to compound the problem and greatly increase the cost by having instead to have to go to British, Mexican, Canadian nationals, and not take it back, but you know the reality of it: pay them for it.

Today this is relatively simple: the Cuban military or the Cuban government directly to an American national. Tomorrow you will increase the costs and the complications of this enormously.

Chairman GILMAN. The gentleman's time has expired.

Mr. TORRICELLI. I thank the chairman.

I urge members to vote for this bill as has been demonstrated to oppose the Hamilton amendment. The greatest truth about it all is it is working. As the Miami Herald has reported, the law is working, giving a great disincentive to the seizing of the property of the people you represent.

Irony to irony, do not take it away now. Thank you, Mr. Chairman.

Chairman GILMAN. Now the time remaining is 12 minutes for Mr. Burton and 15.5 minutes for Mr. Hamilton.

The chair wishes to make the following announcement. As I indicated at the beginning of the mark-up we have several members at a meeting at the White House who have requested we delay any vote, roll call votes, until they can return. In order to accommodate those members, I am going to offer a unanimous consent request which has been agreed to by the Minority. I ask unanimous consent that any roll call votes requested on this amendment or any other amendment be held until 12:15 p.m. today or at anytime as soon thereafter as practical should the committee be in recess, in the order in which they were requested.

Without objection——

Mr. ENGEL. Mr. Chairman?

Chairman GILMAN. Are you asking for time on the unanimous consent request?

Mr. ENGEL. Yes. I guess it would be reserving the right to object. I will not object, but I just wanted to say that there are some amendments on the floor at about that time on the Foreign Ops bill and if I could perhaps amend it or with the understanding that some of us that have to be on the floor to do those amendments would also have the opportunity to have the roll call held open so that we could vote.

Chairman GILMAN. We will have to consider that at the time that it occurs.

Mr. ENGEL. All right. Thank you.

Chairman GILMAN. If there is no objection, the request is agreed to.

Mr. Hamilton.

Mr. HAMILTON. Mr. Chairman, may I ask the administration witness to come forward? I have a couple of questions.

Chairman GILMAN. Would you please identify yourself?

Mr. WEINER. Yes, Mr. Chairman. My name is Allen Weiner. I am with the Office of the Legal Advisor of the State Department.

Chairman GILMAN. And would you put the mike a little closer to you, please. Thank you, Mr. Weiner.

Mr. HAMILTON. One of the arguments I made was that the bill makes it harder to protect the property rights of Americans around the world. If the bill is enacted, what are the implications for international claims settlements around the world?

Mr. WEINER. Mr. Hamilton, in the first instance, the claims program that would be affected would be the Cuban claims program. This cause of action is limited to property takings by Cuba, so the principal effect in the beginning would be on the Cuban program.

We believe that this provision would hamper the possibility of getting a claims settlement agreement with Cuba of the type that we have concluded in recent years with Germany, Vietnam, and Albania. Because the Cuban Government is unlikely to be willing to settle with the U.S. Government claims where the American claimant has already recovered compensation through private litigation, at a minimum we believe that we will be required to go through the 6000 or so certified U.S. claims on a case-by-case basis to ascertain whether the U.S. litigant has recovered in U.S. court, and whether they obtained full or partial recovery. This will significantly delay resolution of the claims on a government-to-government level.

In addition, it creates a perverse incentive for the Cuban Government. Cuba would much rather have foreign investors pay for these properties than to pay for the properties itself. As such, the bill could create an incentive for the Cuban Government to stall on these negotiations in the hopes that more U.S. claimants will recover against foreign investors.

We believe the approach should be to resolve the property issue in a way that brings about a mechanism under Cuban law that would provide for the return of or compensation for property for all Americans. We would be pushing the Cuban Government to do that.

Mr. HAMILTON. Does the bill create special vulnerabilities for U.S. investors?

Mr. WEINER. Mr. Hamilton, I believe it does. As we have said, other countries would object to what they would perceive to be an impermissibly extraterritorial application of U.S. law. We have decided that we would make U.S. tort law—namely, the law of conversion—applicable to real estate transactions occurring entirely outside the United States. Other countries would respond with reciprocal action. We have seen this already in response to certain provisions of the Cuban Democracy Act. Foreign governments have

enacted blocking measures to try to prevent their nationals from complying with certain provisions of that law.

Mr. HAMILTON. Now, let me be very clear about this. What this bill does, in order to try to get at the Cuban claim problem, is that it puts the investments of Americans all over the world at risk.

Mr. WEINER. If this precedent were followed by other countries, any American who invests abroad would be subject to suit in any country in the world if there is a national of that country who has a claim for that property. Anywhere in the world.

Mr. HAMILTON. All right. Let me ask you on another point. As I read the bill, anyone who trafficks in confiscated property 6 months from the date of the enactment of the bill can be sued. And the bill defines trafficking very broadly, including use of property in the term. Does that not mean that the bill applies retroactively?

Mr. WEINER. If you look at the definition of "trafficks," Mr. Hamilton, it includes such things as "managing" property, "using" property, or even "holding an interest in" property. So it is in fact the case that foreign persons in Cuba who own property which they purchased previously could, 6 months after the date of enactment of this bill, still be considered to be "traffickers" because they might be using that property or holding an interest in that property.

Mr. HAMILTON. So if you are holding Cuban property 6 months from the date of enactment, regardless of when you purchased that property, you are still subject to suit.

Mr. WEINER. That is correct. And remember the way in which these provisions of law will be determined will not be through a discussion of the kind that we often have between these two branches. Private litigants who are interested in recovery will be looking for the most expansive interpretation possible and will be making their arguments before courts.

Mr. HAMILTON. One of the arguments made was that it would be easy to enforce Title III and Title IV because we have a computerized database in all U.S. Embassies listing all U.S. expropriated property worldwide. Does the administration have such a database?

Mr. WEINER. We do not. We do have a general computerized visa "lookout" system of people we have entered into that system. With regard to property claims, we have presented information to the Congress in our section 527 reports concerning American expropriated property claims. That report covers essentially credible reports of claims. We have never made a determination as to whether those claims are valid, nor do we necessarily know which properties are at issue.

If somebody comes to us and says, "We have a claim," we do not have property records with metes and bounds telling us which properties may be at issue and, of course, we would have a hard time determining whether any particular trafficker is in fact involved in that property. The only way to figure that out would be to go to the site and look. We would have to determine if this is the same property that the claimant has written to us about.

Mr. HAMILTON. I made the statement in my opening comment that this bill creates an entirely new right to sue. Virtually unprecedented in U.S. courts. It is a special right to sue. It is available

only to those who lost property in Cuba, not available to anybody else anywhere in the world. Is that a correct statement?

Mr. WEINER. Yes. Insofar as you are dealing with real property abroad, the answer is yes. We are aware of no creation of causes of action for these kinds of recoveries.

Mr. HAMILTON. So my amendment to strike does not create any special class. The bill, itself, creates a special class and those who lost property in Cuba are somehow then more deserving than those who lost property in Germany or Eastern Europe or Vietnam or Russia. Is that not the case?

Mr. WEINER. That is absolutely correct. As a matter of domestic U.S. law, this bill would create two classes of citizens. One would be persons with claims against Cuba and the other would be persons with claims against any other foreign country.

Mr. HAMILTON. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut.

Chairman GILMAN. The gentleman from Connecticut.

Mr. GEJDENSON. I just want to give members of the committee a sense of the nightmare that you are going to create out there for Americans who are innocent of supporting the Castro government or supporting his continuation in power.

In my district, there is a small company that harvests hardwood. And they sell it all over the world. Most of it, frankly, goes to some of the Scandinavian countries for furniture that often comes back to the United States, but some of it goes to the Far East. And a portion of it he was selling to a Japanese trading company. And it turned out that one of the investors in the Japanese trading company was the Cuban Government. And all of a sudden, this small company in eastern Connecticut had its assets grabbed by the U.S. Government because unbeknownst to them they were dealing with a company that had a Cuban investment in it.

And while we are all standing up here trying to figure out how we can be tougher on Castro, I think in the final analysis, what you do is you give Castro the excuse for his failed economic policies and failed political policies. The entire world does business with Cuba. Whether we do business with Cuba or not is irrelevant economically. The only thing it does for Fidel is it gives him the chance to stand up and tell his people, "The reason we are in trouble is because the United States is constantly picking on us."

Now what you are going to do is you are going to take another step here that frankly is not going to make a bit of difference to Fidel Castro. It will just once again complicate our lives and it will give Fidel yet one more headline as to why his regime is failing. It is because the United States is tormenting him.

Do not give Castro the excuses. Do not create the complications here at home for the United States. Support the Hamilton amendment.

Chairman GILMAN. Mr. Burton?

Mr. BURTON. Mr. Chairman. How much time do you want, Bob? Five? I yield 5 minutes to my colleague, Mr. Menendez.

Mr. MENENDEZ. Thank you. I thank the gentleman for yielding. I hope I can get it all in in 5 minutes.

Mr. Weiner, would you come back to the chair to answer some questions, please? First of all, where have you been admitted to practice?

Mr. WEINER. I am admitted in the District of Columbia and California.

Mr. MENENDEZ. And you understand your obligations as an attorney, do you not?

Mr. WEINER. I certainly do.

Mr. MENENDEZ. Is there anything that you want to amend in the answers posed to you by Mr. Hamilton that in reflection, is there anything that you might want to qualify in your answers?

Mr. WEINER. I think the answers were fair, although—

Mr. MENENDEZ. Let me ask you the following, then. You started off when Mr. Hamilton asked you in terms of this will be harder to protect property rights around the world was Mr. Hamilton's statement. And your answer was starting off, "Well, the principal effect would be in Cuba." Is that a fair statement of what you said.

Mr. WEINER. That is correct.

Mr. MENENDEZ. Then you went on to say, "Some of the reasons will be that the Cuban Government, the claimants, well, the Cuban Government would look and say, well, the claimants can get the monies from private companies. But in fact if the claimant got the money from private companies, in essence, would it not reduce the amount that the Cuban Government could say is due and owing the individual. Would it actually not help a future democratic government by reducing that amount?"

Mr. WEINER. Well, as I said, Mr. Menendez, it would as a minimum require for us a case-by-case review of the 6,000 claims.

Mr. MENENDEZ. But it does not preclude having that argument made and in fact helping the future democratic Cuban Government reduce their obligation. Yes or no?

Mr. WEINER. I am sorry. Could you please restate the question?

Mr. MENENDEZ. It does not preclude—you started talking about a case-by-case basis—it does not preclude the future Cuban democratic government from making the argument that you have already had the claim reduced by x number of dollars of private dollars and, therefore, maybe we will only have to come up with the difference if any at all. Yes or no?

Mr. WEINER. It would not preclude the Cuban Government from making that argument.

Mr. MENENDEZ. Now, let me ask you this. You say that the Cuban Government could stall on negotiations. Is it not a fact that the legislation waiting for more companies to sue, is it not a fact that once you have a transition democratically elected government that ultimately the right to sue under the law ceases?

Mr. WEINER. No, that is not correct. I believe under the law, Mr. Menendez, that the right to sue terminates only upon the institution of a democratic government.

Mr. MENENDEZ. OK. In terms of a democratic government, but it ceases. Therefore, that government could not continue to stall in the hopes that there would be other future negotiations.

Mr. WEINER. Well, it could continue to stall throughout—

Mr. MENENDEZ. But not because it is going to go ahead and seek other companies to go ahead and litigate because the right to sue will be finished at that time.

Mr. WEINER. It could continue to stall. I think my answer, Mr. Menendez, is that it could continue to stall throughout the transition process.

Mr. MENENDEZ. You said in answer to the question that U.S. citizens worldwide would be affected, would that not only be true if worldwide other countries would pass laws similar and to deal with beyond Cuban property? This law limits, the proposed law limits to claims, and you keep talking about property, but ultimately what we are seeking here is not title. It is tort. It is a compensation for damages. Is that correct?

Mr. WEINER. It is correct that, as I said in my answer to Mr. Hamilton, what we were talking about is making U.S. tort law applicable to real estate transactions—

Mr. MENENDEZ. But to make that clear for those of us who are not attorneys, are we ultimately seeking in this bill to get a compensation for a damage, whether it is based upon property being taken—but it is a compensation for a damage.

Mr. WEINER. That is correct.

Mr. MENENDEZ. Now, would it not be true that the only way that U.S. citizens worldwide would be affected if all those other countries would pass similar laws?

Mr. WEINER. And as I think I said in my answer to Mr. Hamilton, Mr. Menendez, if other countries reciprocate because they object to this extraterritorial application of U.S. law—

Mr. MENENDEZ. I did not hear you say if they reciprocated. If they reciprocate means if they passed laws doing the same exact thing.

Mr. WEINER. Or comparable things. It is important to understand that there are quite settled principles about when a country may apply its law extraterritorially. We in this bill would be choosing to apply our law extraterritorially to deal with the problem of property expropriated by the Castro government. But other countries may have other agendas, other issues and—

Mr. MENENDEZ. But other countries would have to find a legal avenue to create the same cause of action for their citizens. Yes or no?

Mr. WEINER. They could presumably under their domestic law. Under our domestic law, Congress has the authority to apply U.S. law extraterritorially. It would be up to each country to decide under this approach—if we do not abide by settled international practice, it would be up to each country to decide when to apply its law extraterritorially.

Mr. MENENDEZ. The bottom line is—would you answer the question yes or no. I am asking a very simple question. Would they not have to provide all these countries worldwide that you say are going to affect U.S. citizens and companies abroad, would they not have to provide a legal course of action in their domestic courts similar to the ones that we are providing here. Yes or no?

Mr. WEINER. Yes.

Mr. HAMILTON. Would the gentleman yield?

Mr. MENENDEZ. I do not have enough time to yield.

Mr. HAMILTON. Would the gentleman yield?

Mr. MENENDEZ. I answered you. I do not have enough time to yield.

Now let me just move on further. Do you not have a list of the claimants already under the Claim Act?

Mr. WEINER. We have a——

Mr. MENENDEZ. Yes or no? Do you have a list of claimants under the Claim Act?

Mr. WEINER. We have a list of persons who were U.S. nationals at the time their property was taken in Cuba whose claims were certified by the Foreign Claims Settlement Committee.

Mr. MENENDEZ. You have that list.

Mr. WEINER. That is not the same universe of claims that would be covered by this bill.

Chairman GILMAN. The gentleman's time has expired.

Mr. BURTON. I yield the gentleman 1 additional minute.

Chairman GILMAN. The gentleman has an additional minute.

Mr. MENENDEZ. I thank the gentleman for answering the questions. Thank you very much.

Let me just state, the fact of the matter is we can term answers however we want. We can give them global perspective which really means that every country in the world who objects to this very law would have to do the same exact thing. So, therefore, if they truly object to it and if they think it violates international law, then they would all be violating international law. I think that undermines the issue of whether or not this truly violates international law which it does not.

The question is whether we want to defend U.S. citizens and U.S. companies. Now, if no other legislation and no other Congress sought to do it for those other countries in which properties were confiscated, shame on them. But in fact what we are doing here is standing up for U.S. citizens and U.S. companies to be able to go ahead and make sure their properties that if they were confiscated do not get switched hands. And for the future democratic government, let me just simply say what we are saying is every property that does not get changed becomes one less property that they will have an economic problem dealing with in the future in terms of a democratic Cuba. So the fact of the matter is the issue before us, and I do not have enough time to get into the visa issues, but I have answers to that as well. The bottom line is that the issue before us is do you want to stand up for a U.S. citizen and a U.S. company that had its property illegally confiscated under Cuban law, under U.S. law, under international law and there is no one who can come to that microphone and say that there is international law that in fact stops us from pursuing such a cause of action on behalf of U.S. citizens and U.S. companies. I would urge my colleagues to defeat the amendment.

Chairman GILMAN. The gentleman's time has expired.

Mr. Hamilton.

Mr. HAMILTON. How much time do I have, Mr. Chairman?

Chairman GILMAN. The gentleman has 7.5 minutes time remaining and Mr. Burton has 5 minutes remaining.

Mr. HAMILTON. Mr. Berman, did you want additional time? I yield to the gentleman from Virginia 1 minute and then the gentleman from California, 2 minutes.

Chairman GILMAN. All right.

Mr. BERMAN. I just want to say a few words in support of the Hamilton amendment. Ten years ago I was a budget officer in the administration, the Nixon administration, and I worked on the Senate Appropriations Staff and one of my accounts was the Cuban refugee program. And one of the things that I just could not understand was why we paid Cuban refugees three times the amount of cash and medical assistance that we paid, that we provided to native born Americans who happened to be minorities in the State of Florida.

I feel quite strongly that we ought to provide support for Cuban refugees and certainly for a democratic government in Cuba, but it ought to be consistent. It ought to be even-handed and it should not set a precedent for a double standard. And I think that Mr. Hamilton's amendment corrects those deficiencies in this bill, although I do not think the bill is particularly constructive on the whole. We are going to tie up the court system interminably with claims, some of them legitimate, some of them not as legitimate. And I think we are going to set a precedent that will hound us for years to come in other international situations. So I feel strongly we ought to support the Hamilton amendment and I will offer a subsequent amendment that will be consistent with the Hamilton amendment to try to clean up the bill and make it more even-handed.

Chairman GILMAN. The chair would like to intervene a moment. The chair has discussed the prior request by Mr. Berman to divide the issues and it discussed further the parliamentary inquiry. And I would like to advise the committee that the Hamilton amendment can be divided on the demand of a member as long as each part of the division would be able to stand as an independent proposition. Is there a demand to divide the question at this time?

Mr. BERMAN. Well, Mr. Chairman, can I withhold? I would like to ask a point before I decide whether or not to make my demand.

Chairman GILMAN. The gentleman can state his point of inquiry.

Mr. BERMAN. Well, it is not a point of inquiry. I would like to ask a question of the author of the bill—Mr. Burton, if Mr. Hamilton would yield me a minute or two.

Mr. HAMILTON. I yield the gentleman 1 minute.

Mr. BERMAN. Mr. Burton?

Mr. BURTON. Yes.

Mr. BERMAN. Mr. Burton, you have indicated, Mr. Rademaker has indicated the intent of this is only to apply to transactions which occur and conversions, purchases of confiscated property which occurs 6 months after the effective date of this bill. I want to vote for that part of this bill because I think that will depreciate the value to the Cuban government of these assets dramatically to prevent them from enriching themselves by the peddling of these assets. But I am concerned about the point made by the counsel for the State Department.

As I look at the trafficking definition, a person who earlier purchased this property and continues to use—and let us say paid

market value, not to the owner, but to the government that confiscated that property and continues to use that property could be reached, it looks to me by this definition of trafficking, that is confiscating the property of a well-intentioned purchaser who paid full value before there was a law against it for continuing to use the property that he paid for. And I think you should alter your definition of trafficking to exclude that retroactive application of what otherwise is a prospective proposal.

Mr. BURTON. Well, the problem is it depends on your point of view.

Mr. BERMAN. Well, we could ask Mr. Rademaker.

Mr. BURTON. No. I am saying you are correct. The person who bought that property from Castro or leased it. It was a long-term lease. He is trafficking in that property. He took a U.S. national or a U.S. citizen's property though he knew that Castro started a Communist government and it was confiscated property. The buyer went down there to make a buck off property that was owned by a U.S. citizens.

Mr. BERMAN. But reclaiming my time, you have put the whole argument here—this is not about—we are not talking about morals and ethics, we are talking about what the law should be. The law is if you buy this property after the effective date of this act—

Mr. BURTON. Right.

Mr. BERMAN. You are going to be subject to a tort action for purchasing property stolen by the government.

But the way you write the bill, it is before that law ever passed, before this person ever knew what the consequences of his or conduct would be, we are going to go back and reach and grab you and confiscate in effect your property because you used property you had earlier purchased. I think that is not fair. That is overreaching.

Chairman GILMAN. The gentleman's time has expired.

Mr. BURTON. Let me respond. I will take 15 seconds.

Chairman GILMAN. The gentleman is recognized.

Mr. BURTON. They have a time period within which to get out of the property. Those people will know that they are using confiscated U.S. property. They will know they have purchased confiscated U.S. property. They know what the law of the United States is and that they have a decision to make.

Mr. BERMAN. How can they get out?

How could they get out? Sell to some other poor unsuspecting suspect? I mean that is a good deal if you can get it, but then the next guy has got the problem.

Mr. BURTON. They cannot sell it. That is true.

Ms. ROS-LEHTINEN. Mr. Burton, would you yield?

Mr. BURTON. I yield to my colleague one minute.

Ms. ROS-LEHTINEN. Thank you.

The enactment of Title III does no injustice to traffickers who may become defendants in lawsuits that it authorizes. Castro's confiscation of American properties in Cuba is not one of the world's best kept secrets. Traffickers are fully aware that they are dealing in tainted property. Trafficking is like fencing stolen property. And it is proper to create private judicial remedies for the lawful property owner against the trafficker to prevent the unjust

enrichment and to lessen Castro's ability to exploit his illegal confiscation. The traffickers are in substance accomplices in Castro's wrongdoing.

The right of action provisions will take effect 6 months after the enactment of this act. The traffickers are given the opportunity to gracefully exit from their unjust foreign investment in Cuba. This title is not retroactive. Only trafficking after the date of enactment is made subject to suit. And I thank the gentleman for yielding.

Chairman GILMAN. Mr. Hamilton?

Mr. HAMILTON. Mr. Chairman, I do not think I have any other speakers here. I will reserve the balance of my time to conclude.

Chairman GILMAN. The gentleman has 3.5 minutes remaining, Mr. Burton has 4 minutes remaining.

Mr. Burton?

Mr. BURTON. I do not have any other requests for time. With this legislation we are trying to send a very strong signal around the world that this tyrannical government of Fidel Castro's has outlived its usefulness, has raped its people, and has performed inhumane acts for a long, long time. What we are doing with this legislation is strongly discouraging any future investment in confiscated U.S. property.

We believe this legislation will deny Fidel Castro the hard currency he needs to survive. We think he is on the ropes right now. Some people believe if you provide jobs there is investment in these confiscated properties for Cuban citizens. In reality the money that is paid to Cuban citizens is paid in pesos and though Castro claims that the dollar is worth the peso, there is about a 70-to-1 disparity. So when a Cuban works for a foreign hotel in Cuba, the foreign owners pay the equivalent of \$500 a month to the Cuban Government for that employee and the employee receives only 500 pesos—\$3 to \$4 a month.

We are not going to be hurting the Cuban citizens with the passage of this bill. What we will be hurting is the Castro dictatorship because we will be denying him the hard currency he needs to survive. He cannot get the money he needs unless he sells confiscated U.S. property, and he is trying to have fire sales right now. The real purpose of this legislation is to stop that fire sale, to deny him the hard currency he needs so that he will no longer survive.

We have other provisions in the bill that we will discuss later which will encourage a transition to democracy in Cuba. This bill is headed in the right direction. It makes the right case at the right time and I hope my colleagues will defeat the Hamilton amendment and keep the bill in its original form.

Incidentally, as Mr. Torricelli said we tried to accommodate the State Department and the administration wherever possible and they kept asking for more changes. Enough is enough. This bill is in good form. We hope you will pass it as it is written.

Chairman GILMAN. Mr. Hamilton is recognized to close.

Mr. HAMILTON. Mr. Chairman, let me just say that I have an appreciation of how difficult this issue is for all of the members and I think we have had a good discussion here and, Mr. Chairman, I have appreciated the extra time that you have allocated to us.

I offer the amendment that I did simply because I think the provisions of the bill really do raise new difficult questions and I

thought they needed airing and debate and I think we have started that process here and I commend my colleagues on the other side of the question because I think they have carried that debate very forcefully.

It does seem to me that the key question here is do we treat those who lost property in Cuba entirely differently than we treat everyone else who has lost property everywhere else in the world. We are creating a very special new right here, it seems to me.

Now I want to emphasize the statement of David Wallace, the chairman of the Joint Corporate Committee on Cuban Claims. I ask that that be made part of the record, Mr. Chairman.

Chairman GILMAN. Without objection.

[Mr. Wallace's statement appears in the appendix.]

Mr. HAMILTON. He makes exactly the points that I have made. And may I say to you he argues from the point of view that the embargo ought not to be lifted. But he says, and I am quoting from his letter, "This dramatic expansion of the claimant pool as a practical matter would necessarily impinge upon the property interest of the certified claimants." That is one of the points I made.

He says, "We believe that the recognition of a second tier of claimants will delay and complicate the settlement of certified claims and may undermine the prospects for serious settlement negotiations with the Cuban Government."

And says, "This provision can be expected to invite hundreds of thousands of commercial and residential property lawsuits."

And he says that, "The foreign investments that will be crucial to Cuba's successful implementation of market oriented reforms will all but be depleted by unresolved legal proceedings."

I have tried to make three points. The first is that the bill is going to damage the interests of Americans with existing property claims. I think that point is confirmed by Mr. Wallace. I do not think that has been denied in any way through the debate.

Second point I have tried to make is that the bill is going to make it harder to protect the property rights of Americans around the world. Now, that argument depends on other countries following our example. The argument has been made here today that other countries would not do it, but that argument does not make any sense to me at all. Every country is going to act to protect the interests of their people. And if we take a step to do something, they are going to take a step to do it. And this whole claims settlement process that is fairly well established in international law is going to break down. So if this bill is enacted what you do is place all of the investments of Americans around the world at risk because we can reasonably expect other countries to do precisely what we do to protect our people.

And the third argument I have made is that this bill is going to damage Cuba's prospects for a successful transition to a democracy because that transition depends on investment and investment is going to be much, much more uncertain under this bill because no potential investor can ever be sure whether a particular piece of property has been or could be claimed by an American and they are, therefore, going to be skittish about making an investment.

The very thing all of us want to see happen, private investment in a transitional Cuba, is going to be made much more difficult by this bill.

I understand the complexities of this. I have appreciated the spirit in which my colleagues have participated in it. I know this is going to be debated a lot more. It is important that these issues be put out and examined and I thank the chairman.

Chairman GILMAN. All time has expired.

The question is on the amendment of the gentleman from Indiana, Mr. Hamilton. As many in favor, say "aye."

[Chorus of ayes.]

Chairman GILMAN. As many as opposed, say "no."

[Chorus of ayes.]

Chairman GILMAN. The noes appear to have it and the amendment is not agreed to.

Mr. HAMILTON. I request a recorded vote, Mr. Chairman.

Chairman GILMAN. A request for a recorded vote has been made. All in favor signify by a show of hands.

[Show of hands.]

Chairman GILMAN. A recorded vote is ordered. Pursuant to the prior unanimous consent agreement, the vote on the Hamilton amendment is postponed.

The gentleman from Wisconsin, Mr. Roth, is recognized.

Mr. ROTH. Mr. Chairman?

Chairman GILMAN. Mr. Roth.

Mr. ROTH. I have a amendment numbered No. 1 at the desk. I would like to take that amendment up.

Chairman GILMAN. The clerks will distribute the amendment and the clerk will read the amendment.

Ms. BLOOMER. Amendment offered by Mr. Roth. On page 39, strike lines 15 through 18.

Chairman GILMAN. Without objection, the amendment is considered as read. And at this time I will declare a recess until following the vote on the House floor.

The committee stands in recess.

[Recess.]

Chairman GILMAN. The committee will come to order. Members please take their seats.

When we recessed, we were on the Roth amendment. Mr. Roth?

Mr. ROTH. Mr. Chairman, could I temporarily withdraw my amendment so we could vote on the Hamilton amendment.

Chairman GILMAN. The Roth amendment is withdrawn.

And now we return to the vote by previous order of the committee. The question now occur on the Hamilton amendment. A roll call vote has been ordered and the clerk will call the roll.

Ms. BLOOMER. Mr. Gilman.

Chairman GILMAN. No.

Ms. BLOOMER. Mr. Gilman votes no.

Mr. Goodling. [No response.]

Ms. BLOOMER. Mr. Leach.

Mr. LEACH. [No response.]

Ms. BLOOMER. Mr. Roth.

Mr. ROTH. No.

Ms. BLOOMER. Mr. Roth votes no.

Mr. Hyde.
 Mr. HYDE. No.
 Ms. BLOOMER. Mr. Hyde votes no.
 Mr. Bereuter.
 Mr. BEREUTER. [No response.]
 Ms. BLOOMER. Mr. Smith.
 Mr. SMITH. [No response.]
 Ms. BLOOMER. Mr. Burton.
 Mr. BURTON. No.
 Ms. BLOOMER. Mr. Burton votes no.
 Mrs. Meyers.
 Mrs. MEYERS. No.
 Ms. BLOOMER. Mrs. Meyers votes no.
 Mr. Gallegly.
 Mr. GALLEGLY. [No response.]
 Ms. BLOOMER. Ms. Ros-Lehtinen.
 Ms. ROS-LEHTINEN. No.
 Ms. BLOOMER. Ms. Ros-Lehtinen votes no.
 Mr. Ballenger.
 Mr. BALLENGER. No.
 Ms. BLOOMER. Mr. Ballenger votes no.
 Mr. Rohrabacher.
 Mr. ROHRABACHER. No.
 Ms. BLOOMER. Mr. Rohrabacher votes no.
 Mr. Manzullo.
 Mr. MANZULLO. No.
 Ms. BLOOMER. Mr. Manzullo votes no.
 Mr. Royce.
 Mr. ROYCE. No.
 Ms. BLOOMER. Mr. Royce votes no.
 Mr. King.
 Mr. KING. [No response.]
 Ms. BLOOMER. Mr. Kim.
 Mr. KIM. [No response.]
 Ms. BLOOMER. Mr. Brownback.
 Mr. BROWNBACK. No.
 Ms. BLOOMER. Mr. Brownback votes no.
 Mr. Funderburk.
 Mr. FUNDERBURK. No.
 Ms. BLOOMER. Mr. Funderburk votes no.
 Mr. Chabot.
 Mr. CHABOT. No.
 Ms. BLOOMER. Mr. Chabot votes no.
 Mr. Sanford.
 Mr. SANFORD. No.
 Ms. BLOOMER. Mr. Sanford votes no.
 Mr. Salmon.
 Mr. SALMON. No.
 Ms. BLOOMER. Mr. Salmon votes no.
 Mr. Houghton.
 Mr. HOUGHTON. [No response.]
 Ms. BLOOMER. Mr. Hamilton.
 Mr. HAMILTON. Yes.
 Ms. BLOOMER. Mr. Hamilton votes yes.

Mr. Gejdenson.
 Mr. GEJDENSON. Aye.
 Ms. BLOOMER. Mr. Gejdenson votes yes.
 Mr. Lantos.
 Mr. LANTOS. [No response.]
 Ms. BLOOMER. Mr. Torricelli.
 Mr. TORRICELLI. No.
 Ms. BLOOMER. Mr. Torricelli votes no.
 Mr. Berman.
 Mr. BERMAN. Yes.
 Ms. BLOOMER. Mr. Berman votes yes.
 Mr. Ackerman.
 Mr. ACKERMAN. [No response.]
 Ms. BLOOMER. Mr. Johnston.
 Mr. JOHNSTON. [No response.]
 Ms. BLOOMER. Mr. Engel.
 Mr. ENGEL. [No response.]
 Ms. BLOOMER. Mr. Faleomavaega.
 Mr. FALEOMAVAEGA. [No response.]
 Ms. BLOOMER. Mr. Martinez.
 Mr. MARTINEZ. Yes.
 Ms. BLOOMER. Mr. Martinez votes yes.
 Mr. Payne.
 Mr. PAYNE. [No response.]
 Ms. BLOOMER. Mr. Andrews.
 Mr. ANDREWS. [No response.]
 Ms. BLOOMER. Mr. Menendez.
 Mr. MENENDEZ. No.
 Ms. BLOOMER. Mr. Menendez votes no.
 Mr. Brown.
 Mr. BROWN. No.
 Ms. BLOOMER. Mr. Brown votes no.
 Ms. McKinney.
 Ms. MCKINNEY. [No response.]
 Ms. BLOOMER. Mr. Hastings.
 Mr. HASTINGS. [No response.]
 Ms. BLOOMER. Mr. Wynn.
 Mr. WYNN. No.
 Ms. BLOOMER. Mr. Wynn votes no.
 Mr. McNulty.
 Mr. McNULTY. [No response.]
 Ms. BLOOMER. Mr. Moran.
 Mr. MORAN. Aye.
 Ms. BLOOMER. Mr. Moran votes yes.
 Mr. Frazer.
 Mr. FRAZER. [No response.]
 Chairman GILMAN. The clerk will call the absentees.
 Ms. BLOOMER. Mr. Goodling.
 Mr. GOODLING. [No response.]
 Ms. BLOOMER. Mr. Leach.
 Mr. LEACH. [No response.]
 Ms. BLOOMER. Mr. Bereuter.
 Mr. BEREUTER. [No response.]
 Ms. BLOOMER. Mr. Smith.

Mr. SMITH. No.

Ms. BLOOMER. Mr. Smith votes no.

Mr. Gallegly.

Mr. GALLEGLY. No.

Ms. BLOOMER. Mr. Gallegly votes no.

Mr. King.

Mr. KING. [No response.]

Ms. BLOOMER. Mr. Kim.

Mr. KIM. [No response.]

Ms. BLOOMER. Mr. Houghton.

Mr. HOUGHTON. [No response.]

Ms. BLOOMER. Mr. Lantos.

Mr. LANTOS. [No response.]

Ms. BLOOMER. Mr. Ackerman.

Mr. ACKERMAN. No.

Ms. BLOOMER. Mr. Ackerman votes no.

Mr. Johnston.

Mr. JOHNSTON. Yes.

Ms. BLOOMER. Mr. Johnston votes yes.

Mr. Engel.

Mr. ENGEL. [No response.]

Ms. BLOOMER. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. [No response.]

Ms. BLOOMER. Mr. Payne.

Mr. PAYNE. No.

Ms. BLOOMER. Mr. Andrews.

Mr. ANDREWS. [No response.]

Ms. BLOOMER. Ms. McKinney.

Ms. MCKINNEY. [No response.]

Ms. BLOOMER. Mr. Hastings.

Mr. HASTINGS. [No response.]

Ms. BLOOMER. Mr. McNulty.

Mr. McNULTY. [No response.]

Ms. BLOOMER. Mr. Frazer.

Mr. FRAZER. [No response.]

Ms. BLOOMER. Mr. King.

Mr. KING. No.

Ms. BLOOMER. Mr. King votes no.

Chairman GILMAN. The clerk will report the roll.

Ms. BLOOMER. On this vote there were 6 ayes and 23 noes.

Chairman GILMAN. The amendment is not agreed to.

Mr. Roth.

Mr. ROTH. Thank you, Mr. Chairman.

Mr. Chairman, I have amendment 1 at the desk.

Chairman GILMAN. Will the clerk please distribute the amendment.

The amendment has been distributed.

Mr. ROTH. Mr. Chairman, maybe I could en bloc my amendments. I have amendments 2 and 3 also at various part of the bill. Could I en bloc those amendments?

Chairman GILMAN. Will the clerk please distribute the additional amendments.

The clerk will read the amendment.

Ms. BLOOMER. Amendment offered by Mr. Roth. On page 39, strike lines 19 through 23. Renumber subsequent provisions accordingly.

Page 45, line 22, strike "shall" and insert "is authorized to."

Page 46, line 1, strike "shall" and insert "is authorized to."

Mr. ROTH. Mr. Chairman.

Chairman GILMAN. Mr. Roth.

Mr. ROTH. Could I ask the amendments be considered as read and allow me to explain the amendments?

[Mr. Roth's amendments appear in the appendix.]

Chairman GILMAN. Without objection, it is so ordered. I just want to clarify that amendment No. 1 is also before the committee in addition to amendments 2 and 3. Mr. Roth is recognized in support of his amendments.

Mr. ROTH. Thank you, Mr. Chairman.

Mr. Chairman and members, I am very sympathetic—

Mr. MENENDEZ. Mr. Chairman, if I may? A parliamentary inquiry.

Chairman GILMAN. Who is making the inquiry?

Mr. MENENDEZ. I am, Mr. Chairman.

Chairman GILMAN. Yes, Mr. Menendez.

Mr. MENENDEZ. Mr. Chairman, what is the procedure on this particular amendment. I notice in the past amendment you dedicated an hour with time split. What is the procedure on this amendment?

Chairman GILMAN. Mr. Roth, did you make a request for time?

Mr. ROTH. I did not make a request for time, Mr. Chairman.

Chairman GILMAN. Then we will proceed under the 5-minute rule.

Mr. ROTH. Thank you, Mr. Chairman.

Chairman GILMAN. Mr. Roth?

Mr. ROTH. Thank you, Mr. Chairman.

Mr. Chairman, let me again say, and members, that I am very sympathetic to the overall goals of this legislation. To hasten the day when Cuba is free would be my fondest dream. And I know that Mr. Burton and many others have worked very hard on this legislation. I congratulate them for that.

I have read this legislation very closely and what I am concerned about is the vast new foreign aid that is mandated, not just authorized, under this legislation. So what my amendment basically is doing is authorizing these programs, not mandating them. This bill establishes a massive new foreign aid program that is permanent in duration and open-ended in funding. With our huge budget deficits and having a mandated balanced budget now in seven years, I have to ask: where is the money going to come from? So what I would do avoid mandating all of these provisions. I would not authorize them. For example, this bill says that the American taxpayers will foot the bill for retraining of Cuba's military to accept democracy. The question could be asked, "Is this sensitivity training for Fidel Castro's generals?"

The bill also says that we are going to help pay for Cuba's foreign debt. That is \$6.8 billion. We have a hard time paying our own debt. So what I am saying is let us not mandate this. Let us just authorize it. It can be looked at in the future. This bill says that

we would have to be paying Cuba's debts to Moscow, Beijing, whoever Castro owes. This bill also promises Cuba the same type of aid that we have authorized for Russia and the former Soviet Union.

What does this mean? Listen to the types of foreign aid that would come under this section. Setting up a new legislature. I say we should authorize, not mandate it, and we could take a look at it when the new government comes.

Setting up new courts and legal systems, training new civil service, setting up labor unions, restructuring the banking system.

I am on the banking committee here in our own Congress and it is tough for us to get our banking system in order, let alone go down to Cuba and set up a whole new system for them.

Modernizing their agriculture. We are cutting back on our farmers in our budget here on Capitol Hill.

Fixing their health care system. Why, we could not even pass a health care bill here in Congress. Now, we are going to go down to Cuba and say we are going to do that down there?

Taking over the school system. Building a new power plant, building new telephone systems, protecting their environment.

Here is another. This bill even authorizes U.S. assistance to set up an educational TV network in Cuba.

Hey, wait a minute. We are privatizing PBS here at home. I wonder how the American taxpayer would look at setting up something like this in Cuba.

Basically, what I am saying is, this is a great bill, but it mandates too many things. Let us not mandate this. Let us authorize it, but let us not mandate it. And that is why in these three amendments, what I am doing is I am taking "shall" out and putting "to authorize" in all the way along the line.

In the second amendment, we are going to mandate a free trade agreement and MFN for Cuba. Well, let us not mandate it. Let us authorize it, but let us not mandate it. Let us see what kind of government we are going to have in Cuba.

Look at Panama. We went down and got rid of Noriega, but we are having a hard time getting Panama to work with us on money laundering, and other things. So all I am saying is let us authorize it; let us not mandate it.

Remember the big fight we had with NAFTA here on Capitol Hill? Here the bill requiring a free trade agreement, with no debate, no nothing. I do not think that is a wise policy for us to make.

And the third issue is, that the bill would give Guantanamo back as soon as the new government comes in. Look at the big debate we had with the Panama Canal Treaty.

What I am saying here again is let us not mandate it, let us authorize it. And I think that that would strengthen this bill. It does not do any harm to this bill and so I am asking the members of this committee to go along with me on these three amendments.

Chairman GILMAN. Who is seeking recognition?

Mr. MENENDEZ. Mr. Chairman?

Chairman GILMAN. Mr. Menendez.

We will come back to this side after Mr. Menendez.

Mr. MENENDEZ. Thank you, Mr. Chairman.

Mr. Chairman, I respect what Mr. Roth's concerns are, but I disagree with his understanding of the section as well as is the only

message to the Cuban people that we will assist them in movements toward transitions to a democratic government. And, in fact, this is the heart of the bill that goes to dispel the Castro myth that in fact all the United States wants to do is to be punitive and that all the United States wants to do is to have designs over the sovereignty of the Cuban people. And this section, the one section of the bill is the section that dispels that.

Now let me start off with that this does not mandate assistance. It mandates a plan of assistance. And I will read specifically. "Authorization," page 40, section 202, "The President shall develop a plan." It does not mean he shall give assistance.

What we want to do for the first time is to be proactive and say as a beacon of light to the Cuban people, "Look, no matter what Castro says to you, the fact of the matter is that we are ready and willing to assist. There are a series of conditions you must meet," as we condition aid in other parts of the world.

And what is that condition? Movements toward democracy. Limited assistance in the plan for a transitional government. And ultimately more broad reaching opportunities to a democratically elected government.

Now, I do not know where education TV is in Cuba. I would hope Mr. Roth would show me in the bill in the section where that is promoted. I do not see it.

The fact of the matter is that what we attempt to do here is in fact to say to the Cuban people, "When Fidel Castro says the United States does not want to help you, look at Article 2 of the Helms-Burton bill. We are setting a plan." When Fidel Castro says to you, "We have designs over the base at Guantanamo to keep it in perpetuity, look at Article 2. We are willing to consider," we do not have to, but, "We are willing to consider negotiation." To send a message to the Cuban people. And most importantly to the military in Cuba, "If you ever want to see democracy in Cuba and you have a transition government, you want to make sure that military does not turn its arms on their brothers and sisters because they believe they have no role to play in a future democratic society." And you do not want them to turn their guns and rifles as we saw in other parts of the world, you want the same reaction as you saw in Eastern Europe. You do not want them to turn their guns and rifles against their brothers and sisters seeking democratic change. And so you have got to send them a message.

That message is by no intention a mandate. It is only a mandate for a plan, but that plan gives an opportunity for hope.

Now for those who have problems with the "shalls" I looked at the voting record of some of the members here as it relates to those who supported the Freedom Support Act and the Seed Act. And those members who voted for those, and you know who you are, let me just say that in fact under the Freedom Support Act, under the Seed Act, for starters, there are 50 specific uses of "shall." Each instance mandates a specific provision directing the administration, the State Department, the Energy and Labor Department and others to take specific measures with respect to the act. Measures far beyond creating a plan and I could read them for you.

And under the Freedom Support Act there are again at least a dozen or so provisions that mandate far beyond a plan and so do

not take the only section of the bill that does not guarantee that there is a dollar that is going to go, but that creates the opportunity for a plan that if in our good judgment we decide in fact we should fund those plans and we should go ahead to assist the Cuban people, that in fact we will do so. And we will send a beacon of light now, destroy the propaganda that Castro has and be ready in a transitional government toward democracy which is in our national security interest to have. Do not destroy that by voting for Mr. Roth's amendment.

Chairman GILMAN. Ms. Ros-Lehtinen, 5 minutes.

Ms. ROS-LEHTINEN. Thank you. Thank you, Mr. Chairman. About, about the Roth Amendment, it deals with mainly three sections of the bill dealing with U.S. assistance to the Cuban transition government, dealing with the U.S. naval base at Guantanamo, and dealing with the President extending MFN and NAFTA to a free Cuba. And this amendment would actually deny the fledgling democratic Government of Cuba the types of assistance that it would most likely need.

The first months of a transitional government will most likely be chaotic, and if the transition government is to be successful, it will need the kind of assistance that this amendment would deny it.

The President should be allowed as many options as possible to help make the transition to democracy in Cuba successful, and military assistance is a key element if a new democratic-reform government is to beat off efforts by a determined, militant, violent, organized minority to disrupt and terrorize the civilian population. We have seen this all too often throughout the world.

Nothing would be more frustrating than for the administration to have a transition government in Cuba, yet be unable to offer the military assistance to help the transition government maintain order and hold elections. And the language offered in the amendment which allows the President to provide assistance he determines to be essential is open to interpretation and not as clear as the language that the amendment eliminates.

On the naval base at Guantanamo, this would remove one option that our government would have to help the transitional Cuban Government ultimately succeed. For the new transition government to be able to renegotiate the Guantanamo Naval Base agreement would be a great boost to the fledgling democratic government, and this amendment would make it harder for us in the United States to assist the transitional Cuban Government by actually one option away from the list of ways that we can help this new democracy.

And on the extending various treaties to Cuba, other countries today are enjoying these trade agreements with the United States, and they are the ones that are helping to continue to enslave the Cuban people. And a truly free Cuba should be given at least the same chance to have favorable trade agreements with the United States as these countries enjoy. And we must do all we can to assist this transitional Cuban Government be successful in order to make the jump to a free-market system.

And the alternative would be for Cuba to have an economic chaos situation and a wave of problems affecting our own country here in the United States. So, while I understand the concerns that Mr.

Roth has, if you carefully look at the Menendez language in the bill, you would see that it is far more permissive than, than you might have thought.

These amendments would weaken the bill because it states that the President shall take steps to extend these trade agreements, and that is the positive approach, and that is what we should adopt. So I hope that we carefully look at the Roth Amendment, examine the present language in the bill, and you would see that it is far more discretionary than you would suppose, and I yield back, Mr. Chairman.

Mr. BURTON. The gentlelady yields back the balance of her time. Mr. Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman. Mr. Chairman, first, while I disagree with Mr. Roth on this instance, I do want to acknowledge that in all of our efforts against the Castro government, he has always been a friend and an ally. And in this case we differ simply on a matter of strategy and interpretation, but we are grateful for his help through the years.

It seems hard to believe, but when Fidel Castro falls from power and the dictatorship ends, our problems are not over. There is still going to be a serious security issue before the United States. A Cuba with no government, a faltering economy can produce hundreds of thousands of refugees, become a base for criminal operations and further source of instability in the Caribbean.

It is important that the United States learn from the fall of other Communist dictatorships. We can either plan for this event, as the Germans planned with East Germany, restore economic growth, provide for economic stability and growth, or we can transform the Caribbean into the former Soviet Republics: weak, faltering, bases of criminal operations, and mass migration.

That is the choice. We would all like the option that the Castro government would fall and life would simply go on, but it will not. We need to use these last few months or years of this dictatorship to prepare for the future. That is what Mr. Menendez's work and the work of our subcommittee has been all about. We provide a blueprint. We do not authorize one dollar. We have no power to appropriate one dime.

We simply provide a blueprint for trade, for restoring some security on the island by training security forces, for providing modernization for agriculture as soon as possible to create the markets and the means of production.

I would like to argue to you this is just a Cuban problem, but it is not a Cuban problem; it is an American problem. Post-Castro Cuba will be totally economically, socially, and culturally integrated into the Caribbean and into the Southern United States. If that economy is not functioning properly, if there is mass migration or a base for criminal operations, it will impact every city from Miami to Galveston. It is our problem, not theirs. This is the means of dealing with it.

But one thing more. In the interim, it is also an important tool. Fidel Castro has always argued to his people that this conflict with the United States was between the U.S. Government and the people of Cuba.

We are attempting to demonstrate the best way that we can that this is a dispute between the people of the United States and Fidel Castro. This legislation provides as clear as is possible, as this committee did previously in the Cuban Democracy Act, that with Fidel Castro in office, nothing is possible. The minute he is removed, everything is possible. People who would be his opponents, leaders of his own military, even in his own Communist Party, realize the minute that there is a democratically elected government in Cuba, assistance is possible, trade is possible, relations are possible, everything is possible. Until then, nothing.

We want that contrast to be clear. This legislation does it in its starkest terms. Mr. Roth would as well, with more permissive language. We simply would like—it may not appear to be a substantial matter, but we would simply like that contrast to be clearer and for Fidel Castro to be denied the argument this is some kind of a dispute between two peoples. It is not. It is a dispute with him and his dictatorship. Thank you, Mr. Chairman.

Mr. BURTON. The gentleman's time has expired. Mr. Funderburk. The gentleman is recognized for 5 minutes.

Mr. FUNDERBURK. Mr. Chairman, while I disagree with Mr. Roth, I would like to yield my time to him.

Mr. BURTON. That is the gentlemanly thing to do. Mr. Roth.

Mr. ROTH. Thank you, gentlemen, for yielding. I do not think we have a disagreement on the goals here, but, you see, I do not know what kind of government the Cuban people will opt for.

And when I read this legislation on, for example, page 49, the implementation with respect to a democratically elected government, this bill says the President shall, upon determining that a democratically elected government in Cuba is in power, submit that determination to the appropriate congressional committees and shall, subject to the availability of appropriations, commence the delivery and distribution of assistance to such democratically elected government under the plan developed under this section.

I think that is pretty straightforward that it is a mandate. All I am saying, basically, Hey, when we pass this legislation, let us not mandate it. Let us give ourselves a little elbow room. You know, we are giving NAFTA, MFN—do you remember the debate we had with NAFTA with Mexico? Here we are just flat-out giving it. MFN. Remember the debate we had with Panama Canal?

Well, I think we want to see what kind of government comes to Cuba before we—unilaterally give all of these mandates to the President that he must engage in.

Yes, I am very much in favor of having a free Cuba, as eager as anyone, but in our eagerness to give incentives to Cuba to be free again, we must also keep a perspective of what we are doing here and read the language.

Mr. TORRICELLI. Would the gentleman—

Mr. ROTH. In just a second, please. We have an obligation to our country, to the United States of America, too. After all, we are the U.S. Congress. How will this bill affect us, the U.S. taxpayers? What kind of mandates, burdens, are we placing on ourselves and our U.S. taxpayers and Federal agencies and our U.S. President?

Yes, let us help Cuba absolutely, but let us keep a perspective. Let cool heads prevail. Yes. I would be happy to yield.

Mr. TORRICELLI. I thank the gentleman for yielding, and simply for purposes to narrow the differences and make the language clear, the President must certify that there is a democratic government in Cuba, because I share the gentleman's concern. I do not want the United States to have a relationship with another military dictatorship in Cuba any more than I want us to have one with the current Castro dictatorship.

Therefore, the President must certify, as we said in the Cuba Democracy Act, in that case, that an election has been scheduled, that is democratic in nature—in this case, that there is a democratically elected government. In fact, we are raising the hurdle over current law.

Additionally, the gentleman's point about NAFTA, I agree. I do not think that we should simply go ahead and authorize agreement into the North American Free Trade Agreement. All we do in this bill is we authorize the President to discuss and negotiate this with the Cuban Government.

Mr. ROTH. Well, let me take back the balance of my time. That is not the way this bill reads. If you will read—and you are a good lawyer—you read this legislation. That is not what the bill says. The bill makes it a mandate, just like MFN. That is why I am concerned about it. I do not—

Mr. TORRICELLI. Would the gentleman cite the section? We can look at the section.

Mr. ROTH. I do not want to mandate this at this time. I remember when we made sacrifices. We went down to Panama. We got rid of Noriega; we needed a democratic government in Panama. But we are having problems with that government today when it comes to money laundering and all those other issues.

What I am saying is let us not mandate all these things on ourselves. Let us wait and see what kind of a government we have in Cuba—what kind of a government will the Cuban people opt for—and then make that decision. Let us not be rash and tie our hands with all this legislation now. Let us be cool. Let us be more cerebral when we look at these things.

I know there is a lot of passion here when it comes to this legislation, but, by golly, we owe it to the U.S. taxpayers to keep cool heads and to look, look at the—you know, actions have consequences. Legislation has consequences. Yes, let us help Cuba, but let us be a little more dispassionate and a little more circumspect as we pass this legislation.

Mr. HASTINGS. Mr. Chairman.

Mr. BURTON. Mr. Hastings. Did Mr. Payne seek recognition prior to Mr. Hastings?

Mr. HASTINGS. I do not know.

Mr. PAYNE. I shall yield to Mr. Hastings.

Mr. BURTON. The chair recognizes Mr. Hastings for 5 minutes.

Mr. HASTINGS. Thank you, Mr. Chairman. I wish to associate myself with the remarks of the Congresswoman from Miami, Ms. Ros-Lehtinen, and Mr. Menendez and Mr. Torricelli. And at this time I would yield 30 seconds of my time to Mr. Torricelli.

Mr. TORRICELLI. I thank the gentleman, for yielding. I will be brief. I simply want to bring to attention of the members of the committee on page 46 of the bill, sections 2 and 3. I quote, in sec-

tion 3, “. . . is authorized to enter into negotiations with the democratic government in Cuba to provide for extension of NAFTA.” The paragraph before, “. . . shall take steps to enter a preliminary agreement with such government for extension.” The final power on NAFTA remains with this Congress.

Mr. ROTH. Would the gentleman yield?

Mr. TORRICELLI. The time is not mine. But this simply allows the President to begin discussions to see whether an agreement is possible because we want to signal to the Cuban people that, post-Castro, we would have a different kind of government. But the power remains with this Congress. There is no power with the President to do this unilaterally, only enter into negotiations. I thank the gentleman for yielding. I am sorry. I did not have the time, but I am sure the gentleman was yielding.

Mr. ROTH. Would the gentleman yield to me just 15 seconds?

Mr. HASTINGS. I shall yield 15 seconds to the gentleman.

Mr. ROTH. I think that—thank you. I think that the gentleman from New Jersey is really arguing for my amendment, makes a strong argument. You see, on page 46, on the first line, it says, “shall take necessary steps,” all I am saying is authorized to take necessary steps. I do not mandate it; I just authorize it. And I think that is what the gentleman is saying. That is all I am saying in this amendment.

Mr. HASTINGS. Mr. Chairman, at this time, most respectfully, I would yield the balance of my time to Mr. Menendez.

Mr. MENENDEZ. I thank the gentleman from Florida for yielding time. Let me try to be dispassionate, although I always find it interesting when people talk about Cuba, they throw the word “passion” into it. When they talk about other parts of the globe that they are interested in, they are dispassionate.

When we talk about Cuba, somehow we seem to get labeled as “passionate,” and I sometimes, although I am sure the gentleman in this case did not refer—mean it that way, there are too many in the debate who when somehow you talk about Cuba, you are passionate. I have heard very passionate statements about many subjects here, but let me try to be dispassionate.

On page 49, I want to reiterate that the Presidential mandate to proceed is subject to the availability of appropriations. So that is a controlling influence that we have, the whole appropriations process, whether or not we will, in fact, appropriate for any of this; and, again, only after there is a certification for a democratically elected government.

Look at the hurdles that we create when we consider those conditions. They are very, very significant. So, it is subject to appropriations, number one, and that is a major, major safeguard for the Congress.

Number two, let me say that in the sections that deals with trade, what we are basically saying is, for example, on the Caribbean basin issue, we could say the President shall determine whether or not. He may determine not to designate Cuba as a benefit under that country.

Moving on to the other issues of the NAFTA agreement, all we are seeking to do is to give him—in essence, say he is authorized to go ahead and enter into some conversations, in essence. That

part, I have no objection to, but it has been joined with a much wider part of Mr. Ross's other amendments.

If he would wish to extract that out, I would be willing to support him, because I think what he wishes to do is what I wish to do, is simply—and I believe the language does—is simply to enter into negotiations. Those negotiations may prove fruitless.

The point being that what we are, in fact, saying is that we are willing, in a transitional and then, more importantly, for these specific issues that have now been cited, in a democratically elected government—and I urge you to look at the sections—what that definition is.

We are willing to consider the possibilities. We are willing to talk to you, but it does not mean we will actually give it to you. And not only will we have the opportunity to create the standards that we have set in the bill, but we will also be able to judge after that whether those standards are a continuing fashion to be met.

And so, therefore, I think, honestly, that we have the safeguards Mr. Roth seeks; but if he wants to change on this specific issue to have the language made more clearer, then all we are doing is authorizing to some form of conversation, I would be happy to consider that, but the rest guts the heart of the bill.

Mr. BURTON. The gentleman's time has expired. Representative Meyers, you are recognized for 5 minutes.

Mrs. MEYERS. Mr. Chairman, it seems to me like there is, at least, a question here in regards to the language in some cases. One of the lessons we certainly should have learned from our aid programs in the former Soviet Union is that it is very easy to build unrealistic expectations by even appearing to promise more than we are—more than we can deliver.

When these expectations are not met, the people in that country really begin to resent us. The last thing we want in a newly free Cuba is for the people to think we are reneging on a promise to provide more aid than we are really prepared to. I think the Roth Amendment is wise, so that we just do not fall into that trap, and I would speak for the amendment.

Mr. BURTON. The gentlelady yields back the balance of her time. Mr. Payne is recognized for 5 minutes.

Mr. PAYNE. Thank you very much, Mr. Chairman. Let me indicate that I strongly support this section of this bill. To me, as a matter of fact, if it could be a bill by itself, I would be overwhelmingly supportive of the legislation. But let me, let me commend the gentleman from New Jersey, Mr. Menendez, for coming up with these three key points in this area.

You know, as he indicated, it is passion when, when you talk about Cuba, especially by Cubans, and also some of my other New Jersey colleagues, but when we talk about other parts of the world, it is not passionate.

We talk about Russia and what we should do for Russia and why the Russians decided that perhaps we did not do as much as we should, but when we take a look at Cuba and we look at the sphere of influence that the United States has, it is like comparing apples with oranges.

When we talk about Cuba, a country that has suffered under the imperialism of the United States for many years, we have done a

tremendous amount to harm Cuba. We supported people that were not fair to Cuban people.

We went into Cuba during a war that the Cubans were winning anyway against the Spanish, and came in and said that we, therefore, should have a prominent role in development in the future of Cuba because of Teddy Roosevelt and the Rough Riders at San Juan Hill.

Incidentally, it was the Buffalo Soldiers, a black group of, of calvarymen, who actually saved the Rough Riders from possible extinction at the Battle of San Juan Hill because they were entrapped.

But that is a part of history, and I only raise it because the United States have been involved in Cuba, not like it has been involved in Russia or in other places, and where we have done so much to disenfranchise the people in that area, I think that we have the responsibility of assisting, once the period of time returns, that the country can become a democratic country.

I think that the items in this amendment make sense. I think we ought to look at trade and investment in an accelerated manner. I would hope, too, that under a new democracy that all people, African-Cubans and others, will also be able to move up to prominence, since the nation is about 50, 55 percent African-Cuba. And so I think that there is a great deal of interest that we ought to do the right thing once the transition comes.

I may have a difference of opinion as to what ought to be done to bring about the transition. I do not support the general concepts of the bill. I do not think that, that our current practice is exactly what might speed up democracy in Cuba, but I could certainly support 100 percent the items that this bill talks about in this particular section.

I think the section is right. I think it does the right thing. I think it sends the right message to the people of Cuba. I think that it attempts to start to unravel some of the wrongs that we have made in our exploitation of that island nation, and I believe that, in my opinion, it is in the right direction, and I urge the defeat of the Roth Amendment and encourage you to support the language in the bill. I will yield back the balance of my time.

Mr. BURTON. The gentleman yields back the balance of his time. Mr. Brown, is recognized for 5 minutes.

Mr. BROWN. Thank you, Mr. Chairman. Strike the last word. I, I will only make one comment, and that is in the Mr. Roth en bloc amendment there is a provision dealing with NAFTA which I agree with and support. I do not support the amendment but support that one part of it. I just wanted to inform members of the committee that I will have an amendment to make those same changes in the NAFTA language sometime today. I yield to Mr. Menendez.

Mr. MENENDEZ. I want to thank the gentleman for yielding. I intend to support your amendment on the question of NAFTA, because I think it is the same thing that Mr. Roth seeks to do, which is basically to make sure that all we are talking about is having the possibility of a conversation on those issues.

I thought that the language that is in the bill does that, but if it needs further clarification, I intend to support that for those who have concern on that specific item. But the broader amendment at

hand really goes to the heart of trying to send—and I do not think that we would be reneging on a promise.

We are saying, Here are the possibilities, and those possibilities are out there to help the Cuba people, and it would give them something to aspire for, to try to work toward to, in fact, create a beacon of hope; and I think it goes to the heart of the propaganda we constantly hear about the Castro dictatorship. It gives the United States a totally different image.

I would not be part—and I understand the gentlelady's concerns—I would not be part of reneging on a promise that I would make. I simply believe that it would be a plan of action that would say, Here are the possibilities, and it would be looked and promoted in that way. Thank you.

Mr. BROWN. I yield back the balance of my—

Mr. BURTON. The gentleman yields back the balance of his time. I yield myself 5 minutes.

I think this has been a very healthy debate, but I would like to address a couple of the issues that have been raised.

We are talking about dealing with a democratically elected government, and I think that is what we all want. Second, if you look at the language in the bill, we are talking about some shall provisions. These "shall" provisions may be followed by giving the President a great deal of discretion in where these monies are going to be spent, if they are going to be spent at all.

I do not think the shall provisions mandate that we are going to be spending a lot of money down in Cuba but it does mandate that we have a plan to assist the Cubans in their move from a tyrannical government to a democracy.

One of the things that has not been discussed which I think is at the heart of the debate, is that Fidel Castro has been telling the Cuban people that we are at war with them, a statement that could not be further from the truth.

The U.S. government is not at war with the Cuban people. We are at war with the Communist dictatorship in Havana, and we want to see that dictatorship change to a democratically elected government.

When he reiterated his support for a one-party election, (if you want to call that an election), he started talking specifically about the Burton-Helms bill and how it was going to hurt the Cuban people.

It is important that the provisions we are talking about be transmitted to the Cuban people so that they know once Castro is gone, we are going to help them in the transition to a democracy, and to a free-market economy.

It is important that they get that message in this legislation, and that is why the provisions we are debating right now are so important. For us to force Castro out and then not to give them the assistance they need to move toward a free-market economy and toward democracy would be like giving them an empty sack. They would have to confront problems without much help.

If we are going to help drive Castro from power, then we have to also say to the Cuban people, "We are not against you. We are against your tyrannical government. We want you to have democracy and freedom, and we are going to help you attain those goals

with this legislation. After this legislation is passed and after Fidel Castro is gone, we will be working with you to achieve what you should have had in the first place: freedom, democracy, and human rights."

I yield back the balance of my time. Now the question comes on the Roth Amendment. Did the gentleman seek recognition?

Mr. MANZULLO. Yes, I did.

Mr. BURTON. I shall yield to my colleague for 5 minutes.

Mr. MANZULLO. Thank you. In examining Mr. Roth's amendment here to substitute, it is apparent to me that what Mr. Roth is attempting to do is to promise the full-fledged moral support that this country has and financial support to the extent of the embargo staying in place, the protection of claims, etc.

Why is it that whenever we have a problem, we come up and say we have to spend more money on it? I just do not really think that the American people are ready for us to commit to have a check signed—we do not know what the bottom line would be at this point—saying that we all want democracy in Cuba, but we are going to have to forego spending on perhaps some roads and bridges and other important infrastructure in this country for the purpose of setting up the infrastructure.

I mean, for example, we give a tremendous amount of money to the United Nations. You know, why should not the United Nations take on the financing of protections for democratically held elections in Cuba? I mean, what is the purpose of the U.N. if we cannot turn to that body and say, This is one of your charter functions. Go ahead and conduct those elections, as opposed to saying, Well, here is an authorization where the United States would essentially take the U.N. off the hook in paying for that. I will yield to Mr. Roth.

Mr. ROTH. I thank the gentleman for yielding. Sometimes I feel maybe I am the only one that is really interested in passing this bill because, you know, if you are going to pass this bill on the floor, you are going to have to address these issues. Do you think the national security committee is going to go along with the Guantanamo provision? Come on, I have already talked to them. They are not going to do that.

How do you think the sugar producers in Louisiana are going to feel, when they see that we have a free trade agreement in this bill. They are not going to go along with that. You have to be more realistic.

You know, one of my friends over on the other side had mentioned we are not going to renege on a promise. Of course we should not renege on a promise, but this particular plan says that we shall implement whatever is in the plan.

I want to ask you a question. When you take a look at this bill, this bill says we are going to help pay Cuba's foreign debts. That is \$6.8 billion. How much of that foreign debt are we going to pay? Some people say, "Well, that is not the way to interpret the bill." If you have an interpretation now of this bill, wait until freedom comes to Cuba. You are going to have quite another interpretation.

They have a \$6.8 billion national debt. Are we going to pick that up, and how much of it are we going to pick up?

Listen to the types. This bill says that—Mr. Chairman, can we get some order? Mr. Chairman, can we get some order in—

Mr. BURTON. Gentlemen—

Mr. ROTH [continuing]. Because I think these are important provisions.

Mr. BURTON. I agree. The committee will come to order.

Mr. ROTH. We have said that we are not going to renege on these promises. We, in this bill, promise the same type of aid that we have authorized for Russia and the former Soviet Union. Let us take a look at what this means.

Does this mean we are going to set up a new legislature for Cuba? Are we going to set up a new court system and a legal system? Are we going to set up a new training for civil service? That is all included in here. Are we going to set up labor unions, restructuring the banking system? I have said before, we cannot get a banking bill through our own Congress, but we are going to go to Cuba and restructure—we are promising to restructure the banking system, modernize their agriculture. We are cutting back on our agriculture right here at home.

We are going to go down there and modernize their agriculture. We are going to fix their health care system. It is right in here. We cannot pass a health care bill in Congress.

Mr. BURTON. Reclaiming my time—

Mr. ROTH. We are taking—could I have just about another minute?

Mr. BURTON. Let me ask you a question. Essentially, you are in favor of the basic bill. Is that correct?

Mr. ROTH. Yes, I am very much in favor of the basic bill, but I am opposed to the mandates in the bill. I say let us, let us take a look at it. Let us give ourselves some leeway. You see, I do not want to mandate all of these things in our government.

Mr. BURTON. I concur with that, and I will give you back the rest of my time.

Mr. ROTH. And I thank the gentleman for continuing to yield to me. There is another provision. This says that when this plan is formalized, the President of the United States is going to make public and is going to make this public to the Cuban people.

Now, there are a lot of promises here. We are not going to renege on these promises. We say in this bill that we are going to authorize U.S. assistance to set up an educational TV network in Cuba. Hey, wait a minute. We are privatizing PBS right here at home, but we are going to spend taxpayers' dollars on a private—on a public TV in Cuba?

I mean, analyze this legislation for a minute, see what we are doing here, and how much this is going to cost us.

Mr. MENENDEZ. Would the gentleman yield?

Mr. ROTH. Where is this legislation going to lead?

Mr. BURTON. The gentleman's time has expired.

Mr. ROTH. That is why I—Mr. Chairman, that is why I am saying that the mandates in this bill are wrong. Yes, let us authorize it, but let us not mandate it. You are never going to get it through Congress this way.

Mr. BURTON. The gentleman's time has expired.

Mr. ENGEL. Mr. Chairman.

Mr. BURTON. The gentleman from New York is recognized for 5 minutes. Mr. Engel.

Mr. ENGEL. Thank you. I thank the chairman. I rise in opposition to the amendment, and I yield the balance of my time to Mr. Menendez.

Mr. MENENDEZ. I thank the gentleman for yielding. I do not intend to take all the time. I just want to—I am not necessary in total disagreement with Mr. Roth. I just have a different interpretation of reading of the language.

First of all, we are not going to absorb all of Cuba's debt, and we are not saying that in the bill. If you look at the section that is pertinent, on page 43, it says, "Such economic assistance may include," and then you go down the list, and it says, "relief of Cuba's external debt."

That does not mean it shall include it; it may include it, and, then again, it may not. It may be part of it; it may be all of it. I doubt it, but the bottom line is the very thing that he wants discretionary is him. It is a 'may'; it is not a 'shall.'

With reference to the activities that many members of this committee on both sides of the aisle supported in the Freedom Support Act, we do not mandate the provisions of the Freedom Support Act. We say, on page 42, "assistance to a transition government in Cuba may include assistance for activities comparable to those in essence of the Freedom Support Act."

So all we are saying is here is the blueprint of possibilities, and in that blueprint of possibilities here are some of the potential things we can do working together, if we believe that you have met certain standards. So I do not see the massive commitment to dollars that is being promoted.

I cannot find, for the life of me, where we are promoting public television in Cuba. I am looking in the sections, and I do not see it. So the bottom line is that I think that what we are talking about is not what, in fact, the Seed Act does or the Freedom Support Act does. You know, in the Cede Act we mandate a program and a system. We mandate stabilization, assistance in debt relief. We mandate agricultural assistance. We mandate labor-related technical assistance. We mandate private sector development assistance. We mandate the Peace Corps volunteer assistance.

What we say in this bill is it may include the following provisions. In hopes of undercutting Castro's propaganda and ultimately in hopes of moving to a democratically elected government and subsequently helping a democratically elected government so we have hemispheric stabilization at last. The third-largest army in all of the hemisphere, we are talking about in Cuba. The United States, Brazil, Cuba. Third—largest army in all of the hemisphere.

We—it is in our national security interest to lay a blueprint of possibilities, and that is all we are trying to do here. I respect the gentleman's concerns. I think they reach beyond the language of the section. I yield back the balance of my time.

Mr. BURTON. We have a number of our colleagues on the floor with the Foreign Aid Operations Bill. It will be difficult getting them back here for a vote. I know many do not want to miss votes on this very critical issue, so I ask unanimous consent that any roll

call votes requested on this amendment or any other amendment be held until 2:15—

Mr. ENGEL. Mr. Chairman.

Mr. BURTON [continuing]. So we can allow our colleagues to—yes?

Mr. ENGEL. Can I ask you to amend that? As I mentioned before, I was on the floor with the Foreign Ops Bill during my amendment at the time of the last vote, and I had mentioned before, and I think it was agreed, that we would hold that vote open as well, so I would like to amend your unanimous consent statement to include the previous vote as well.

Mr. BURTON. I would like to accommodate you, but counsel informs me that we cannot do that. You cannot go back on a roll call vote.

Mr. ENGEL. Well, may I then just make a parliamentary inquiry? I had mentioned before that the time we were voting on the bill was the exact time that my amendment was due on the floor, and, in fact, when I did my amendment on the floor, we had Mr. Rohrabacher and Mr. Smith come and speak in favor of my amendment.

I had to do some little extra talking because of it, and I do not think it is fair that I should be recorded absent when I was doing what I had to do as a member of Congress on a Foreign Ops Bill that is certainly relevant to this committee.

Mr. PAYNE. Mr. Engel, will you yield on that for a moment? Mr. Engel, would you yield?

Mr. ENGEL. Yes. Certainly.

Mr. PAYNE. I concur with the gentleman from New York. I would hope, because we asked for a vote to be, to be held also—there was a meeting that many of us had to attend, and it was assured that they thought that the vote could be held. I missed that vote, too. I am very disappointed, and I would just urge the support of the inquiry from the gentleman from New York.

Mr. ENGEL. And let me just say, Chairman Gilman was on the floor, rushed to the floor also to speak on my amendment.

Mr. BURTON. I would really like to accommodate my colleagues, but early in the session the rules were set regarding votes. I do not have the authority to—I will be happy to yield to my colleague.

Mr. ENGEL. Yes. I would be happy to yield.

Mr. GEJDENSON. Well, early in the session the rules said we were not going to vote while we are in 5-minute procedures on the floor, and early in the session we had a number of other agreements on the number of committees members would serve on.

It seems to me the majority has a responsibility at this stage or at some stage of the session—and I do not blame this on the gentleman who is presently in the chair or the chair of the full committee—to go back and see if all the rules made as much sense as they thought they did when they instituted them at the beginning of this session.

I mean, I am now on several committees that I serve on. Votes are being held to accommodate, it seems more often the majority members than the minority members, but in any instance we have gone through a process of trying to figure out in some new contortional legislative process how to do what was done easily

when you had proxy voting in committees. And members are running between floors.

I am not sure they are any more knowledgeable about what they are voting on, and it certainly does not make the process work well.

This committee ought to be centrally involved in the debate on the floor on the foreign operations budget. But we are here doing something that is also very important. I would hope that the gentleman, Mr. Burton, and others on the other side who have more access to the present leadership of the House, although I am confident that will change after next November, would, at least for the next year and several months that you are in control, try to go back and maybe you do not have to admit that you made a mistake in some of these rules, but you might be able to find a way to improve upon them to make it more reasonable for us to—

Mr. BURTON. We understand. I like your suspenders. The gentleman from New York?

Mr. ENGEL. Can I make parliamentary, parliamentary inquiry? Perhaps we could handle it one of two ways. Could we not either take a re-vote, as I know has been done in the past? It was recently done on the floor, in fact, or could we—or could I ask unanimous consent and get it that way?

Mr. BURTON. The chairman has returned, and I am going to turn the chair back over—

Chairman GILMAN. The committee will come to order. I am going to ask our committee for unanimous consent that any roll call votes requested on this amendment or any other amendments be held at 2:15 today or at any time as soon thereafter as practicable, should the committee be in recess, in the order in which they were requested. Without objection, we will, we will—

Mr. HAMILTON. Mr. Chairman.

Chairman GILMAN. Mr. Hamilton.

Mr. HAMILTON. It is not my intention to object. I got the impression that all amendments are going to be voted on at two-fifteen, whether or not we have had any debate or discussion. I presume that you are just asking unanimous consent to vote on those that have been discussed—

Chairman GILMAN. Yes, and it is our conception that it will be only those that are in order at that time.

Mr. ENGEL. Mr. Chairman.

Chairman GILMAN. Yes. Mr. Engel.

Mr. ENGEL. Yes. Reserving the right to object, you had just come into the room, and I had inquired if that might include my being able to vote on the previous amendment, Mr. Hamilton's amendment. As you know, I was on the floor doing the Foreign Ops Bill on an amendment of mine which was being offered, and as I had raised it at the very beginning, when you asked unanimous consent to delay the original vote to 12:15, I said I might be on the floor at that time.

So I would like to amend the request to include any votes that we have had today, including the vote on Mr. Hamilton's amendment.

Chairman GILMAN. Mr. Engel, as you recall, in order to accommodate those members who are away, we held off votes. We put members on notice that we would hold off all votes until 12:15. As

a matter of fact, we did not vote until 12:30 or 12:35. I think based on the fact that we gave sufficient time for everyone to vote—and I recognize you are on the floor—but that debate did not start until one o'clock.

Mr. ENGEL. No, Mr. Chairman. I beg to differ. At 12:15, I was called and told that I had to be on the floor immediately because my amendment was coming up, and I was on the floor at 12:15, and we started the amendment shortly thereafter, probably at about 12:20 or 12:25; and I had mentioned it before the committee.

I was here earlier and prepared to vote, and, as a courtesy to our colleagues, we postponed the vote to 12:15. But I do not think that courtesy ought to mean that I would miss the roll call.

I think the same courtesy should be extended to me as well, particularly when I was doing legitimate business on the floor of the House on a bill pertaining to foreign affairs, and I think it is very important. And I had asked before you came, Mr. Chairman, if we could perhaps do it by my asking unanimous consent; or if that is not possible, if we could then have a re-vote.

If we are going to accommodate members who are on the floor now for these votes, then I think I should have similar accommodation for the vote before, particularly when I raised it prior to the vote prior to being on the floor.

If you remember, I did not object when you asked unanimous consent to move it to 12:15, and I stated clearly then that I might be on the floor at that time.

Chairman GILMAN. The gentleman is heard with regard to the—do I hear a unanimous consent to allow the gentleman's vote to be recorded? We have a rule that we have adopted. Do I hear a unanimous consent request that—

Mr. HASTINGS. Reserving the right to object, Mr. Chairman.

Chairman GILMAN. Yes, Mr. Hastings.

Mr. HASTINGS. Reserving the right to object, and I will not object and not meant to belabor the point, Mr. Chairman, but several of us, or particularly, Mr. Payne and myself, were unavoidably detained at the White House in a meeting with the President. There was no way on earth that we could be here. But in light of the fact that there is no consistency, it becomes continuously troubling that we are in this position, not just in an international relations committee, but overall.

Now there have been revotes in other committees on which I serve, and I think what Mr. Engel is asking for is a revote which would at least give us an opportunity to be recorded. Obviously, we are going to request a unanimous consent to allow our vote to be placed in the record at the appropriate time or at least our position that we take.

Well, here, we are asking substantively for an opportunity to revoice for the reason that we were in matters that we could not undertake.

One final point, Mr. Chairman. I want to speak against the Kenya Amendment that is ongoing, and I have responsibilities here, and it becomes exceedingly difficult for us to conduct our business in that regard.

Most respectfully, what we ask is unanimous consent for a revote.

Mr. PAYNE. Mr. Chairman.

Chairman GILMAN. Yes. Mr. Payne.

Mr. PAYNE. Yes. Mr. Chairman, I, too, before you came in, expressed my concern. We asked that the votes be held because of the meeting at the White House. The fact that there were interrupting votes—four votes that came up—we assumed, then, that we could get here following the vote. Evidently, that vote was taken so shortly after that final vote was cast that we were unable to make the vote, and we assumed that it would be held a little bit later because of the interruption of those votes; and so, I, too, would urge. I wanted to be on the floor speaking against a resolution that passed by voice vote to cutoff aid to Ethiopia if human rights violations do not subside.

I think that the bill was ill-timed. I think it was the wrong bill because, in Ethiopia, since Mengistu is gone, the country has had a 100-percent improvement by opening up prisons and so forth, but because we were here, we missed a bad resolution passed by a voice vote to, to penalize Ethiopia because we are sitting here trying to wait for this vote to come. And, as we indicated, the Kenya vote is on the floor.

Mr. GEJDENSON. Mr. Chairman?

Mr. PAYNE. This makes absolutely no sense.

Mr. GEJDENSON. Mr. Chairman?

Mr. PAYNE. Nonsense. I would ask for a revote on the, on the Hamilton Amendment.

Mr. GEJDENSON. Mr. Chairman?

Chairman GILMAN. Mr. Gejdenson.

Mr. GEJDENSON. Mr. Chairman, maybe I can offer at least some solution to what is a situation which I think is frustrating more and more members. Maybe what you need to do is that because if we have a revote now, frankly, we are then going to disadvantage some members who are now on the floor, to create additional chaos.

And I think that is the problem with the system, is we have got it set up with these kind of blanket waivers that are going on. Maybe what we need to do is hold the vote, all the votes until the end of the day and, you know, try to give members a chance to come back and do it then, because I think you are going to find, you know, particularly for this committee at this moment with the Foreign Ops Bill on the floor, members are constantly being torn between participating in the debate—I missed a couple of issues that I have wanted to be on in order to be here.

Maybe what you need to do is either hold this over a day or continue the debate and hold the votes at 5 o'clock—

Mr. BURTON. Would the gentleman yield?

Mr. GEJDENSON [continuing]. At a time when all members know with some certainty and not just the convenience of some members are addressed.

Chairman GILMAN. The gentleman from Indiana, Mr. Burton.

Mr. BURTON. Yes. Mr. Chairman, I am very sympathetic to my colleagues, and this is an important issue, so I will do the following: if we pass this unanimous consent request, at two-fifteen, I will move that we do have a revote on the issue and give everybody plenty of time to know that we are going to revote the issue on the Hamilton Amendment. That way everybody will have a chance to

be recorded. But we will have to go the floor and make sure everybody knows that we are revoting.

Mr. ROTH. Mr. Chairman?

Chairman GILMAN. Is there an objection to the gentleman's unanimous consent request?

Mr. ROTH. Yes, Mr. Chairman.

Chairman GILMAN. Mr. Roth.

Mr. ROTH. I reserve the right to object. I just want to say this. I do not think that we can revoke because once you get that precedent, there is no end of chaos and confusion. I would say this, however. Mr. Chairman, for the members who were not here and have strong feelings about this issue, why don't we record right after the vote, saying that had they been here at that time, this is how they would have voted. It would come right after the vote. I think that would be a good compromise, Mr. Chairman.

Chairman GILMAN. The gentleman raises a good point, but there is a unanimous consent——

Mr. WYNN. Mr. Chairman.

Chairman GILMAN [continuing]. Request by the gentleman from Indiana. Mr. Wynn.

Mr. WYNN. In, I guess, a similar vein, the parliamentary inquiry, would it be possible to allow members of the committee to vote on a matter that has been voted upon if their vote would not change the outcome of the decision? I think most of the concern is not trying to reverse an obviously decided outcome, given the members of the committee, but rather their attendance and participation be reflected in the record.

That is an approach that I have seen taken in other forums that has worked to allow people to be recorded as they see fit but not affect the outcome of a vote. Now, if it would affect the outcome of the vote, then that would be a different circumstance. But if that is not applicable, it seems to me that might be one way to address the concern of many members.

Chairman GILMAN. What the chair is trying to do is establish a rule of order here that will not allow the chaotic kind of confusion once a vote has been obtained and members come in late and are trying to cast their vote. That was the reason we established the rule in the first place.

I am now going to ask unanimous consent that any roll call votes requested on this amendment or any amendments thereto be held at 2:15 today or at any time as soon thereafter as practical, should the committee be in recess, in the order in which they are requested. If there is no objection——

Mr. ENGEL. Mr. Chairman?

Chairman GILMAN. Yes, Mr.——

Mr. ENGEL. Can I ask for a clarification, please? Does that include Mr. Burton's——

Mr. BURTON. Would the chairman yield, please, on that point?

Chairman GILMAN. Mr. Burton.

Mr. BURTON. Yes. When we return at 2:15 for the vote, I will move to reconsider—not revote, the action that took place on the Hamilton Amendment. That will open up a legitimate avenue for another vote.

Chairman GILMAN. If there is no objection, we will proceed——

Mr. BURTON. Thank you, gentlemen.

Chairman GILMAN [continuing]. We will follow that procedure. Who seeks recognition now on the Roth Amendment? Mr. Martin.

Mr. MARTIN. I do not support this bill, but I recognize the bill is going to pass, so I think it is important that we make what constructive changes we can, and I see Mr. Roth's amendment as constructive. I was impressed by Mr. Menendez's argument, as I always am, but I think that what he confirmed is that there is no reason why not to accept Mr. Roth's amendment.

On pages 40—the principal changes in Mr. Roth's amendment are on pages 40 and 41. It changes the word shall to may. By listening to Mr. Menendez, it appears that that is consistent with the intent of the bill, whereas the word may is used in other instances, it does say, on page 40, that the President shall develop a plan; on page 41, it says, assistance on the plan developed under paragraph one shall include the following; and on page 42, it says, assistance to a democratically elected government in Cuba shall consist of additional economic assistance.

If we were to change those words to may, it is far more consistent with the intent of this committee, which is an authorizing committee—we are not usurping the role of the appropriations committee, which is to determine relative priorities and to actually fund authorizations.

This is an authorization the appropriation decision should be left to the appropriations committee, and for that reason I would support Mr. Roth's amendment and suggest that it is consistent with the points Mr. Menendez made. Thank you, Mr. Chairman.

Chairman GILMAN. Does anyone else seek recognition on the Roth Amendment? Mr. Chabot?

Mr. CHABOT. I move to strike the last word, and I shall yield my time—

Chairman GILMAN. The gentleman is recognized for 5 minutes.

Mr. CHABOT. Thank you. I yield my time to the gentleman from Indiana, Mr. Burton.

Mr. BURTON. I thank the gentleman for yielding. I think we are all talking about the same thing. The "shall" provisions are followed by "may" provisions which set up the mandate that we are going to have a plan of action. We mandate that the administration have a plan of action to deal with the Cuban situation once Cuba becomes a democratic country.

But once we establish the fact that there shall be a plan of action, we give discretion to the administration with may provisions in the bill. I think the latitude is already there.

Regarding the Guantanamo issue, it says, on line 19 of page 39, that we are to be prepared (it does not say you are going to do it) to enter into negotiations with a democratically elected government in Cuba either to return the U.S. naval base at Guantanamo to Cuba or to renegotiate the present agreement.

It does not mandate anything except that we will discuss the issues with a democratically elected Cuban government. I do not think there is anything wrong with that. That is the message we want to send to the Cuban people. With the legislation as it is presently written we are telling them. We are going to mandate that there be a plan to work with them to establish a free-market,

democratically elected government in Cuba; and we are going to negotiate with their democratically elected government on issues including the base at Guantanamo.

We will also negotiate with them on an agreement like the NAFTA Agreement. That is why the "shall provision" is in there. It shows plan discuss these issues with them so that they know we will work with them to achieve everything that they have been dreaming for the past 35 years. I thank my colleague for yielding, and I—

Chairman GILMAN. Would the gentleman yield?

Mr. BURTON. The gentleman has the time, Mr. Chabot.

Mr. CHABOT. I shall yield to Mr. Roth.

Mr. ROTH. I thank the gentleman for yielding. There is a lot of confusion in the way this bill is drafted. It does not only say shall; there is a lot of 'may's'. I mean, whoever drafted this bill very craftily drafted it, because you can interpret this many ways.

What I am saying, basically, is: clear it up. It says, yes, we shall have a plan, but this bill also says that the plan shall be implemented. See, what I am trying to do, my good friend from Indiana, is all I am doing is changing the shall in the bill to is authorize to.

Now, the gentleman from New Jersey—and I respect his integrity—said, we are going to make a promise, and we are going to live up to is promise. That is the way I look at it, too, and that is why I want to give us the chance to give us some wiggle room. Once we pass the bill this way, we have no wiggle room left.

The other thing is, I want to see this bill pass. This bill is not going to get by the Louisiana delegation. It is not going to get by the National Security Committee in the shape it is in. That is why we have to draft it so we can get it passed in the Congress.

That is all I am trying to do. I am trying to help you pass the bill. You go and you talk to these other members about this bill, you are going to find out they are out there telling you the same thing I am telling you.

Chairman GILMAN. Well, I understand there are honest differences about it, so—

Mr. CHABOT. I yield back the balance of my time.

Chairman GILMAN. The gentleman yields back the balance of his time. Is there any further discussion on the amendment? If not, as many as that are in favor, signify by saying aye.

[Chorus of ayes.]

Chairman GILMAN. As many as are opposed, say no.

[Chorus of noes.]

Chairman GILMAN. The noes appear to have it. A roll call has been requested. All in favor of a roll call, signify in the usual manner. A roll call will be ordered. It will be postponed until two-fifteen. Mr. Torricelli.

Mr. TORRICELLI. Thank you, Mr. Chairman. Mr. Chairman, in the bill, provisions have been added regarding the Russian military intelligence—

Chairman GILMAN. Would the gentleman yield? Does the gentleman have an amendment?

Mr. TORRICELLI. I do, Mr. Chairman. I have an amendment at the desk.

Chairman GILMAN. Would the amendment be distributed and would the clerk read the amendment?

Ms. BLOOMER. Amendment to the Amendment in the Nature of a Substitute offered by Mr. Torricelli. On page 26, lines 14 through 24, strike lines 14 through 24, insert the following: "2(a)"—

Chairman GILMAN. Without objection, the amendment is agreed to having been read. Mr. Torricelli.

[Mr. Torricelli's amendment appears in the appendix.]

Mr. TORRICELLI. Thank you, Mr. Chairman. Mr. Chairman, in the legislation there are provisions for suspending assistance to Russia relating to its activities at its intelligence listening posts at Lourdes, unless and until the President can make a variety of certifications.

I wrote that provision, and I felt very strongly about it. It also, however, was not my desire to jeopardize all of our operations with Russia, and we have sought some accord. So, with the help of Mr. Burton, Mr. Chairman, under your leadership and at the request of the State Department, and, particularly, Mr. Talbot, we have sought common language.

That language is now before you. It would again insist that the administration request assurances from the Russian Government that the Lourdes facility, as an intelligence listening post, that any intelligence obtained at that position are not shared with the Cuban Government. The Cuban Government has claimed that it has access now to any information gathered at that post.

The Russian Government and the U.S. Government have contradicted that point. I still believe we should insist, upon a certification from the President, that that is not occurring.

However, we have been more accommodating with other provisions that were in the original language simply requiring the President to submit a report and any withholding of assistance to Russia, we are exempting out humanitarian assistance for democratic political reform, for technical assistance with regard to nuclear power plants and private sector free-market development.

Therefore, we have not put those important programs in jeopardy if the President were unable to meet the certification. The remainder of Russian aid would be jeopardized, though the administration seems to believe it can make the certification required in the bill.

In any case, Mr. Chairman, I want to thank you for your leadership in assuring that we were able to come to this accord. As strongly as I feel about the Lourdes facility and restricting Russian access to intelligence gathering on the island, and, most certainly, Cuban access to that information, it was not my intention to jeopardize other foreign policy initiatives.

I think what we have reached here under your authorship and your leadership is a, a good compromise on the issue. For that, I thank you, and I thank Mr. Burton and Mr. Talbot as well in the State Department for his contributions. Mr. Chairman?

Mr. CHABOT. I yield my time.

Chairman GILMAN. The gentleman yields back the balance of his time. Does anyone else desire to be heard?

Mr. BURTON. Mr. Chairman?

Chairman GILMAN. Mr. Burton.

Mr. BURTON. Yes. As the author of the bill, I think this is a valuable addition, and I agree wholeheartedly with Mr. Torricelli. We will be glad to accept the amendment.

Chairman GILMAN. Does anyone else wish to be heard on the amendment? If not, all in favor, signify in the usual manner.

[Chorus of ayes.]

Chairman GILMAN. Opposed? The ayes appear to have it. The amendment is agreed to. Mrs. Meyers.

Mrs. MEYERS. Mr. Chairman, I have an amendment at the desk.

Chairman GILMAN. The clerks will distribute the amendment. The clerk will read the amendment.

Ms. BLOOMER. Amendment to the Amendment in the Nature of a Substitute to H.R. 927 offered by Mrs. Meyers of Kansas. On page 40, lines 2 and 3, strike "There exists a democratic"——

Chairman GILMAN. Without objection the amendment is considered as having been read. Mrs. Meyers is recognized for 5 minutes. [Mrs. Meyers' amendment appears in the appendix.]

Mrs. MEYERS. Mr. Chairman, my amendment would modify the proposed post-Castro policy contained in this bill by allowing the President the flexibility to suspend the economic embargo against Cuba when a transition government has been established.

The amendment authorizes the President to suspend the enforcement of the laws and regulations instituting the embargo of Cuba after Fidel Castro is out and a transition government has taken over and after the President consults with Congress.

They specifically include section 620(a) of the Foreign Assistance Act. This is the legislation specifically authorizing the embargo. Section 620(f), which places Cuba on the list of Communist countries barred from receiving U.S. assistance. The sections of the Cuban Democracy Act which strengthened the embargo. Section 920(c) of the 1985 Farm Bill that assigns Cuba's sugar quota to other countries, and the currency restrictions that prevent financial dealings in and with Cuba.

But to guard against the possibility that a transition to democracy is aborted, these laws authorizing the embargo are not actually repealed until a democratically elected government has been inaugurated.

The reason for this is because 927, H.R. 927 is a unique approach to foreign policy in that it sets specific legislative standards on what kind of government should exist in Cuba before the United States normalizes its policies toward that country.

The standards it sets for a transition government are fairly stringent in terms of what reforms are required before the United States recognizes it. They include respect for human rights, dissolving the governmental instruments of oppression, organizing free and open elections within two years, assuring the right of private property, allowing private telecommunications and media companies, and beginning to return property stolen from American nationals.

I believe that Cuba should have the benefits of American trade and investment as soon as the President has determined that a transition government that meets the standards set forth in the bill has been established. It does not make sense that Cubans be de-

nied the opportunity to trade with Americans for up to two years it will take to organize democratic elections.

Allowing American businesses that are untainted by cooperation with the Castro dictatorship to invest in Cuba during the transition period will speed the economic recovery in that country and allow another way of transmitting democratic values to the Cuban people as they prepare for their first free election in over 45 years.

Failure to adopt this amendment would produce an American policy in the post-Castro transition with some very strange anomalies. We would be providing assistance to privatize the Cuban economy but forbid Americans from investing in or buying the properties being privatized.

We would have required the new Cuban Government to grant operating permits to private telecommunications firms but continue to enjoin our strong telecommunications companies from taking advantage of the opportunities presented, and we would have removed the restrictions on Cuban-Americans sending dollars to their relatives, but the people who got those dollars still could not use them to buy American products.

Mr. Chairman, I hope that you, the members of the committee—Mr. Burton, Mr. Menendez, Ms. Ros-Lehtinen—who have worked so hard on this section of the bill will accept this amendment as a friendly amendment which will make our post-Castro policy more beneficial to Cubans, Americans, and the cause of freedom.

In addition to the things that I have mentioned, we have added some language that I believe Mr. Burton and Mr. Menendez had wanted that says that if the President does agree to suspend the economic embargo, that he shall immediately notify Congress and the President shall report to the Congress no less frequently than every 6 months thereafter until he submits a determination under section 203(c)(3) that a democratically elected government in Cuba is in power.

I think that we have tried to work with the State Department and with various groups on the committee, and I would like consideration of my amendment.

Mr. BURTON. Mr. Chairman?

Chairman GILMAN. Mr. Burton.

Mr. BURTON. Mr. Chairman, I want to congratulate Mrs. Meyers for her lengthy work on this amendment. She has even caught a cold over it. It is a very good amendment and I think it is a welcome addition to the bill.

Chairman GILMAN. Thank you. Does anyone else wish to be heard? If not, all in favor, signify in the usual manner.

[Chorus of ayes.]

Chairman GILMAN. Opposed? The amendment is agreed to. Mr. Menendez.

Mr. MENENDEZ. Sir, Chairman, I have an amendment at the desk.

Chairman GILMAN. Will the clerks distribute the amendment?

Ms. BLOOMER. Amendment to the Amendment in the Nature of a Substitute to H.R. 927 offered by Mr. Menendez. Add the following at the end of Title I, Section 3, 'Withholding of foreign assistance'—

Mr. MENENDEZ. Mr. Chairman, I would like to make a motion that the amendment be considered as read.

Chairman GILMAN. Without objection, the amendment is considered is read. Mr. Menendez is recognized in support of his amendment.

[Mr. Menendez' amendment appears in the appendix.]

Mr. MENENDEZ. I thank the chair. Mr. Chairman, this is an amendment that replicates an amendment I had offered on the House floor to the bill that we, in fact, are considering on the House floor now, in terms of the Foreign Assistance Act, which was ultimately accepted by voice, and I would hope that it would be considered a noncontroversial amendment for the purposes of this.

I have spoken to Chairman Burton, and I believe he will be supportive of it.

In essence, Russia and Cuba have announced a joint stock company to finish construction of a dangerous nuclear power plant in the southern coast of Cuba. And what the amendment would do is to reduce dollar-for-dollar U.S. aid to any country which financially helps the Castro dictatorship prospectively build a nuclear plant.

Now, this is the same type of nuclear plants that when Germany reunited, it shut down four of them because of the nature of the concerns. And let me say that the President, in a letter to me in April 12 of 1993, stated to me that the United States opposes the construction of the Juragua Nuclear Power Plant because of our concerns about Cuba's ability to ensure the safe operation of the facility and because of Cuba's refusal to sign the Nuclear Non-proliferation Treaty or ratify the treaty of Tlateloco.

And, in fact, Cuba has yet to ratify either treaty, the latter of which establishes Latin America and the Caribbean as a nuclear weapons free zone.

The State Department, the Nuclear Regulatory Commission, and the Department of Energy have also expressed concerns about the construction and operation of Cuba's proposed nuclear reactors. Dr. Edward Purvis, who headed the Department of Energy's investigation of Cuba's reactors stated, and I quote: An accident in the Cuban VVER-440, which is the model number, is probable. It is just a question of when. I do not know if they are the most dangerous reactors in the world, but they are the most dangerous reactors anywhere close to the United States.

And then, in September of 1992, Congress received the General Accounting Office report that listed a large number of concerns, including—and I will just mention two of them because I hear that we are going to be having a vote—reports by a former technician from Cuba, who, by examining with x-ray, wells, sites believed to be part of the plumbing system that cools down in the case of an explosion within a nuclear plant, found that 10 to 15 percent of those were defective. And he was quoted as saying the operation of this reactor would be criminal.

And it goes on to talk about the fact that, according to the U.S. Geological Survey, there is a geological formation where the nuclear power plant that was being built that poses seismic risks to Cuba and, obviously, to the reactor site, and in May of 1992 it had an earthquake numbering seven on the Richter scale. And if you are from Texas, Louisiana, Arkansas, Mississippi, Alabama, Flor-

ida, Georgia, Tennessee, South Carolina, North Carolina, Maryland, Virginia, and Washington, D.C., 80 million Americans who are in those states, or almost 1 in 3 Americans in the country, are, according to the National Oceanic and Atmospheric Administration, subjected to the possibility of radioactive pollutants that summer winds could carry from a nuclear accident of the power plant throughout all Florida and parts of the states on the Gulf Coast as far as Texas, and northern winds could carry the pollutants as far northeast as Virginia and Washington, D.C.

It is clear to me, Mr. Chairman, and to 130 of our members who signed a letter to the President saying, do everything you can to stop this, that we should not be permitting the possibility of another Chernobyl-type accident 90 miles away from the shore, and I would like to move adoption of the amendment.

Ms. ROS-LEHTINEN. Mr. Chairman?

Chairman GILMAN. The gentleman's time has expired. Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you, Mr. Chairman. I congratulate Mr. Menendez for his amendment. As he pointed out, we have already previously discussed that on the floor. We had circulated a letter to our colleagues and got 131 of them to write a letter to President Clinton asking him to take steps pressuring the Russian Government to stop finishing construction or the operation of this nuclear power plant in Juragua.

This completion would represent the introduction of a real and present threat to the national security of the United States, to Central America, and, indeed, the rest of the Caribbean. This amendment makes it clear to all countries around the world that the United States takes seriously the threat posed by Juragua and will not provide assistance to any country that helps Castro finish this threat to the United States.

We had had a series of seminars in Miami where we had former technicians, engineers, construction workers who worked on this nuclear plant, and all had testified to the faulty construction of this plant. The x-ray images have shown that many of the pipes in the plant cooling system have visible cracks, thus making it very susceptible to an overwhelming accident, whether a provoked incident or an accident, and radiation leaks have already occurred in similar Soviet-style reactors in Eastern Europe, as was pointed out.

Four similar plants were shut down in Germany after reunification of that country, and we know that the dangers of this plant greatly increases when considering that it will be at the control of a totalitarian dictator who has repeatedly shown his lack of respect for the sanctity of human life. And, in the interest of time, I will yield back, Mr. Chairman.

Mr. KING. Mr. Chairman?

Chairman GILMAN. The gentlelady's time has expired. The gentleman from New York, Mr. King.

Mr. KING. Thank you, Mr. Chairman. I realize we have a vote, and I will keep my remarks brief. I just want to express my support for the amendment. I want to commend Mr. Menendez for the leadership he has shown on this issue. The construction of this nuclear plant will be a threat to the United States, a threat to the hemisphere.

I think it is vital that we do take decisive action on it, that we make it clear that assistance will not be going to countries who are involved in the construction of this plant or who do anything at all to assist in the construction of the plant. I believe it is a vital amendment, and I will be proud to support it.

Mr. BURTON. Mr. Chairman?

Chairman GILMAN. The gentleman's time has expired. The chair is going to declare a recess until a vote on the floor——

Mr. BURTON. Mr. Chairman, I think we can go ahead and move this amendment and get it voted on.

Chairman GILMAN. There is a discussion going on with the proponent of the amendment. I am going to ask that we withhold until we come back, and when we do return, we will be voting on the Roth Amendment en bloc, and, without objection, the chair will then recognize Mr. Burton to offer a motion to reconsider the vote on the Hamilton Amendment.

The committee stands in recess.

[Recess.]

Chairman GILMAN. The committee will come to order. Members please take their seats. We will now have a vote on the Roth Amendment en bloc. A roll call has been requested. Then we will have a Burton motion to reconsider the Hamilton Amendment, and if it carries, a vote on the Hamilton Amendment on reconsideration, and then we will proceed to the Menendez Amendment which will be reoffered and modified. And then Mr. Funderburk has an amendment.

The question is now on the Roth Amendment. All those in favor, signature in the usual manner. The gentleman from Indiana has moved to—I am sorry. All those in favor, signify in the usual manner.

[Chorus of ayes.]

Chairman GILMAN. Opposed?

[Chorus of noes.]

Chairman GILMAN. A roll call is requested. Signify in the usual manner support for the roll call. A roll call has been ordered. The clerk will read the roll.

Ms. BLOOMER. Mr. Gilman?

Chairman GILMAN. Aye.

Ms. BLOOMER. Mr. Gilman votes yes. Mr. Goodling?

[No response.]

Ms. BLOOMER. Mr. Leach?

[No response.]

Ms. BLOOMER. Mr. Roth?

Mr. ROTH. Aye.

Ms. BLOOMER. Mr. Roth votes yes. Mr. Hyde?

[No response.]

Ms. BLOOMER. Mr. Bereuter?

[No response.]

Ms. BLOOMER. Mr. Smith?

Mr. SMITH. No.

Ms. BLOOMER. Mr. Smith votes no. Mr. Burton?

Mr. BURTON. No.

Ms. BLOOMER. Mr. Burton votes no. Mrs. Meyers?

Mrs. MEYERS. Yes.

Ms. BLOOMER. Mrs. Meyers votes yes. Mr. Gallegly?
 Mr. GALLEGLY. Aye.
 Ms. BLOOMER. Mr. Gallegly votes yes. Ms. Ros-Lehtinen?
 Ms. ROS-LEHTINEN. No.
 Ms. BLOOMER. Ms. Ros-Lehtinen votes no. Mr. Ballenger?
 Mr. BALLENGER. Aye.
 Ms. BLOOMER. Mr. Ballenger votes yes. Mr. Rohrabacher?
 Mr. ROHRABACHER. Aye.
 Ms. BLOOMER. Mr. Rohrabacher votes yes. Mr. Manzullo?
 Mr. MANZULLO. Aye.
 Ms. BLOOMER. Mr. Manzullo votes yes. Mr. Royce?
 Mr. ROYCE. Aye.
 Ms. BLOOMER. Mr. Royce votes yes. Mr. King?
 Mr. KING. No.
 Ms. BLOOMER. Mr. King votes no. Mr. Kim?
 Mr. KIM. Yes.
 Ms. BLOOMER. Mr. Kim votes yes. Mr. Brownback?
 [No response.]
 Ms. BLOOMER. Mr. Funderburk?
 Mr. FUNDERBURK. No.
 Ms. BLOOMER. Mr. Funderburk votes no. Mr. Chabot?
 Mr. CHABOT. Yes.
 Ms. BLOOMER. Mr. Chabot votes yes. Mr. Sanford?
 [No response.]
 Ms. BLOOMER. Mr. Salmon?
 Mr. SALMON. No.
 Ms. BLOOMER. Mr. Salmon votes no. Mr. Houghton?
 Mr. HOUGHTON. Yes.
 Ms. BLOOMER. Mr. Houghton votes yes. Mr. Hamilton?
 Mr. HAMILTON. Aye.
 Ms. BLOOMER. Mr. Hamilton votes yes. Mr. Gejdenson?
 Mr. GEJDENSON. No.
 Ms. BLOOMER. Mr. Gejdenson votes no. Mr. Lantos?
 [No response.]
 Ms. BLOOMER. Mr. Torricelli?
 Mr. TORRICELLI. No.
 Ms. BLOOMER. Mr. Torricelli votes no. Mr. Berman?
 [No response.]
 Ms. BLOOMER. Mr. Ackerman?
 Mr. ACKERMAN. No.
 Ms. BLOOMER. Mr. Ackerman votes no. Mr. Johnston?
 Mr. JOHNSTON. Yes.
 Ms. BLOOMER. Mr. Johnston votes yes. Mr. Engel?
 Mr. ENGEL. No.
 Ms. BLOOMER. Mr. Engel votes no. Mr. Faleomavaega?
 [No response.]
 Ms. BLOOMER. Mr. Martinez?
 Mr. MARTINEZ. Yes.
 Ms. BLOOMER. Mr. Martinez votes yes. Mr. Payne?
 Mr. PAYNE. Yes.
 Ms. BLOOMER. Mr. Payne votes yes. Mr. Andrews?
 Mr. ANDREWS. No.
 Ms. BLOOMER. Mr. Andrews votes no. Mr. Menendez?
 Mr. MENENDEZ. No.

Ms. BLOOMER. Mr. Menendez votes no. Mr. Brown?

Mr. BROWN. No.

Ms. BLOOMER. Mr. Brown votes no. Ms. McKinney?

[No response.]

Ms. BLOOMER. Mr. Hastings?

Mr. HASTINGS. No.

Ms. BLOOMER. Mr. Hastings votes no. Mr. Wynn?

Mr. WYNN. No.

Ms. BLOOMER. Mr. Wynn votes no. Mr. McNulty?

Mr. McNULTY. No.

Ms. BLOOMER. Mr. McNulty votes no. Mr. Moran?

Mr. MORAN. Yes.

Ms. BLOOMER. Mr. Moran votes yes. Mr. Frazer?

[No response.]

Mr. PAYNE. How am I recorded?

Chairman GILMAN. The Clerk will call the absentees.

Ms. BLOOMER. Mr. Payne, you are recorded as voting yes.

Mr. PAYNE. It should be no. Thank you.

Ms. BLOOMER. Mr. Goodling?

Mr. GOODLING. Yes.

Ms. BLOOMER. Mr. Goodling votes yes. Mr. Leach? Mr. Hyde? Mr. Bereuter? Mr. Brownback? Mr. Sanford?

Mr. SANFORD. No.

Ms. BLOOMER. Mr. Sanford votes no. Mr. Lantos?

[No response.]

Ms. BLOOMER. Mr. Berman?

Mr. BERMAN. No.

Ms. BLOOMER. Mr. Berman votes no. Mr. Faleomavaega? Ms. McKinney? Mr. Frazer?

Mr. MENENDEZ. Mr. Chairman, can we have a tally?

Chairman GILMAN. We are about to get a tally, if the gentleman would withhold a moment.

The clerk will report the tally.

Ms. BLOOMER. On this vote there were 16 ayes and 19 noes.

Chairman GILMAN. The amendment is not agreed to. And now the gentleman from Indiana moves to reconsider the vote by which the Hamilton Amendment was agreed to.

Mr. BURTON. Mr. Chairman, we—may I—

Chairman GILMAN. Mr. Burton.

Mr. BURTON. Yes. Mr. Chairman, I would like to preface my motion by saying that we have notified everybody that we were having a reconsideration of that vote so that they would not be upset that we literally revoted the issue. I move that we reconsider the vote on the Hamilton Amendment.

Chairman GILMAN. The question is on the motion to reconsider the vote by which the Hamilton Amendment was agreed to. All in favor, signify in the usual manner.

[Chorus of ayes.]

Chairman GILMAN. Opposed?

[Chorus of noes.]

Chairman GILMAN. The ayes have it. The question is now on the Hamilton Amendment. All in favor—we are now on the Hamilton Amendment on reconsideration. All in favor, signify in the usual manner.

[Chorus of ayes.]

Chairman GILMAN. Opposed?

[Chorus of noes.]

Chairman GILMAN. A roll call vote is requested. The clerk will call the roll.

Ms. BLOOMER. Mr. Gilman?

Chairman GILMAN. No.

Ms. BLOOMER. Mr. Gilman votes no. Mr. Goodling?

Mr. GOODLING. No.

Ms. BLOOMER. Mr. Goodling votes no. Mr. Leach?

[No response.]

Ms. BLOOMER. Mr. Roth?

Mr. ROTH. No.

Ms. BLOOMER. Mr. Roth votes no. Mr. Hyde?

[No response.]

Ms. BLOOMER. Mr. Bereuter?

[No response.]

Ms. BLOOMER. Mr. Smith?

Mr. SMITH. No.

Ms. BLOOMER. Mr. Smith votes no. Mr. Burton?

Mr. BURTON. No.

Ms. BLOOMER. Mr. Burton votes no. Mrs. Meyers?

Mrs. MEYERS. No.

Ms. BLOOMER. Mrs. Meyers votes no. Mr. Gallegly?

Mr. GALLEGLY. No.

Ms. BLOOMER. Mr. Gallegly votes no. Ms. Ros-Lehtinen?

Ms. ROS-LEHTINEN. No.

Ms. BLOOMER. Ms. Ros-Lehtinen votes no. Mr. Ballenger?

Mr. BALLENGER. No.

Ms. BLOOMER. Mr. Ballenger votes no. Mr. Rohrabacher?

Mr. ROHRABACHER. No.

Ms. BLOOMER. Mr. Rohrabacher votes no. Mr. Manzullo?

Mr. MANZULLO. No.

Ms. BLOOMER. Mr. Manzullo votes no. Mr. Royce?

Mr. ROYCE. No.

Ms. BLOOMER. Mr. Royce votes no. Mr. King?

Mr. KING. No.

Ms. BLOOMER. Mr. King votes no. Mr. Kim?

Mr. KIM. No.

Ms. BLOOMER. Mr. Kim votes no. Mr. Brownback?

Mr. BROWNBACk. No.

Ms. BLOOMER. Mr. Brownback votes no. Mr. Funderburk?

Mr. FUNDERBURK. No.

Ms. BLOOMER. Mr. Funderburk votes no. Mr. Chabot?

Mr. CHABOT. No.

Ms. BLOOMER. Mr. Chabot votes no. Mr. Sanford?

Mr. SANFORD. No.

Ms. BLOOMER. Mr. Sanford votes no. Mr. Salmon?

Mr. SALMON. No.

Ms. BLOOMER. Mr. Salmon votes no. Mr. Houghton?

Mr. HOUGHTON. Yes.

Ms. BLOOMER. Mr. Houghton votes yes. Mr. Hamilton?

Mr. HAMILTON. Aye.

Ms. BLOOMER. Mr. Hamilton votes yes. Mr. Gejdenson?

Mr. GEJDENSON. Yes.

Ms. BLOOMER. Mr. Gejdenson votes yes. Mr. Lantos?

[No response.]

Ms. BLOOMER. Mr. Torricelli?

Mr. TORRICELLI. No.

Ms. BLOOMER. Mr. Torricelli votes no. Mr. Berman?

Mr. BERMAN. Yes.

Ms. BLOOMER. Mr. Berman votes yes. Mr. Ackerman?

Mr. ACKERMAN. No.

Ms. BLOOMER. Mr. Ackerman votes no. Mr. Johnston?

Mr. JOHNSTON. Yes.

Ms. BLOOMER. Mr. Johnston votes yes. Mr. Engel?

Mr. ENGEL. No.

Ms. BLOOMER. Mr. Engle votes no. Mr. Faleomavaega?

[No response.]

Ms. BLOOMER. Mr. Martinez?

Mr. MARTINEZ. Yes.

Ms. BLOOMER. Mr. Martinez votes yes. Mr. Payne?

Mr. PAYNE. Yes.

Ms. BLOOMER. Mr. Payne votes yes. Mr. Andrews?

Mr. ANDREWS. No.

Ms. BLOOMER. Mr. Andrews votes no. Mr. Menendez?

Mr. MENENDEZ. No.

Ms. BLOOMER. Mr. Menendez votes no. Mr. Brown?

Mr. BROWN. No.

Ms. BLOOMER. Mr. Brown votes no. Ms. McKinney?

[No response.]

Ms. BLOOMER. Mr. Hastings?

Mr. HASTINGS. Yes.

Ms. BLOOMER. Mr. Hastings votes yes. Mr. Wynn?

Mr. WYNN. No.

Ms. BLOOMER. Mr. Wynn votes no. Mr. McNulty?

Mr. McNULTY. No.

Ms. BLOOMER. Mr. McNulty votes no. Mr. Moran?

Mr. MORAN. Yes.

Ms. BLOOMER. Mr. Moran votes yes. Mr. Frazer?

[No response.]

Chairman GILMAN. The clerk will call the absentees.

Ms. BLOOMER. Mr. Leach? Mr. Hyde? Mr. Bereuter? Mr. Lantos?
Mr. Faleomavaega? Ms. McKinney? Mr. Frazer?

Chairman GILMAN. The clerk will report the tally.

Mr. BLOOMER. On this vote there were 9 ayes and 27 noes.

Chairman GILMAN. The amendment is not agreed to. Mr.
Menendez. Mr. Menendez, on the pending amendment?

Mr. MENENDEZ. Mr. Chairman, I would like to ask consent to
withdraw my amendment. I would like to call up a new amend-
ment.

Chairman GILMAN. The gentleman has the right to withdraw his
amendment.

Mr. MENENDEZ. I would like to call up a new amendment, Mr.
Chairman.

Chairman GILMAN. The clerks will distribute the new amend-
ment by Mr. Menendez. The clerk will read the amendment.

Ms. BLOOMER. Amendment to the Amendment in the Nature of a Substitute to H.R. 927 offered by Mr. Menendez. Add the following at the end of Title I, Section 111,——

Mr. MENENDEZ. Mr. Chairman, I ask consent that the amendment be considered as read.

Chairman GILMAN. The amendment is considered as having been read. Mr. Menendez, for 5 minutes.

[Mr. Menendez' amendment appears in the appendix.]

Mr. MENENDEZ. Mr. Chairman, I do not intend to take the 5 minutes. Prior to the last when we adjourned for a vote, I was talking about this amendment in the context of the nuclear power plant that for which the Cuban dictatorship with Russia and others are seeking to go ahead and proceed.

With the consummation of the nuclear power plant, which puts in jeopardy, because of the nature of the plant, four which were closed in jeopardy—the exact-same type of reactors because of the dangerousness of it—and puts 80 million Americans throughout Florida and as far west as Texas and as far north as Washington, D.C., should there be a problem with the reactor. And there are reports to the Congress that, in fact, say—and the letter from the President to me that, in fact, says that they oppose the completion of the construction of the reactor.

And so our original amendment just took, dollar for dollar, reduced aid, dollar for dollar, to the amount that we would be offering to any country, including Russia. In consideration of the chair's concerns and in order to try in the spirit of cooperation, the new amendment would continue to reduce dollar for dollar, but it would exclude a series of items that we believe are important for reform in Russia but still permit those monies that are not as part of that reform movement to be reduced dollar for dollar. And, in view of that, I hope it has wider support and, therefore, I would move the amendment.

I thank the gentleman for his remarks. Does anyone care to be heard on the Menendez Amendment? Mr. Smith.

Mr. SMITH. Very briefly. I want to commend my colleague, Mr. Menendez, for the modification he has made in his amendment, and I intend to support it. I think it is a good amendment.

As chairman of the Commission on Security and Cooperation in Europe, I really believe that we need to continue supporting Russia and the modification—the language he added parallels that which was done in the Foreign Assistance Act that we passed out of this committee and by the full House with regard to Chechnya, and I think he has made a very, very wise improvement to the amendment, and I think it is a good amendment, and I urge everyone to support it. I yield back the balance.

Chairman GILMAN. I thank the gentleman for his remarks. Does anyone else care to be heard?

Mr. BURTON. Mr. Chairman?

Chairman GILMAN. Mr. Burton.

Mr. BURTON. My subcommittee will hold hearings on the Juraqua Nuclear facility sometime in the next two weeks because it would affect the U.S. population in the event that there was a tragedy like Chernobyl. So I commend Mr. Menendez, and we will

be very happy to urge everyone to accept and vote for that amendment.

Chairman GILMAN. I thank the gentleman. Anyone else care to be heard? If not, the question is on the Menendez Amendment. Those in favor of the amendment, signify in the usual manner.

[Chorus of ayes.]

Chairman GILMAN. Those opposed, signify in the usual manner. And the amendment is agreed to. Mr. Funderburk.

Mr. FUNDERBURK. Mr. Chairman, I have an amendment at the desk.

Chairman GILMAN. Clerks will please distribute the Funderburk Amendment. The clerk will read the amendment.

Ms. BLOOMER. Amendment to the Amendment in the Nature of a Substitute to H.R. 927 offered by Mr. Funderburk. Page 52, line 12, strike "two years" and insert "one year."

Chairman GILMAN. Mr. Funderburk is recognized for 5 minutes. [Mr. Funderburk's amendment appears in the appendix.]

Mr. FUNDERBURK. Thank you, Mr. Chairman. Overall, one year is adequate time for a transitional government in Cuba to establish a free and fair environment to conduct democratic elections. Any less or additional time will likely jeopardize the process and send the wrong message to a new transitional government in Cuba.

The two-year requirement for elections that H.R. 927 currently seeks would give a new transitional government too much time and does not send a strong message that democratic elections are a priority for the United States. Furthermore, the United States needs to send the message that free and fair elections must be held as soon as possible and as soon as the new transitional government can legitimately conduct such elections.

Even in the Cuban Democracy Act of 1992 there is a statement that there is a public commitment to hold free and fair elections for a new government within 6 months. And so we are asking for a change from the 2 years to 1 year.

Mr. HAMILTON. Will the gentleman yield?

Mr. FUNDERBURK. Yes, I will.

Mr. HAMILTON. I do not plan to oppose the gentleman's amendment, but it oftentimes troubles me when we try to figure out what works best in helping establish democratic institutions, and I know the gentleman is very serious about the amendment.

It seems sometimes you can rig an election in favor of well-known, well-financed candidates by moving rapidly.

I am not going to oppose the amendment. But I would hope over time we would try to find some method of taking a look at the situation on the ground and figuring out what really gives the people the broadest ability to participate with the broadest kind of reach for candidates. Sometimes a shortened, truncated process can rig the election in favor of individuals that are wealthy, that are well known, and excludes others that might be just as good for the country, if not better, who are not that well known.

Mr. FUNDERBURK. A short time might be 6 months, but I think 1 year might be a reasonable time. I would like to yield the balance of my time to Mr. Burton.

Chairman GILMAN. Mr. Burton.

Mr. BURTON. Yes. Mr. Chairman, this was in the original bill in the original language. We think it is a very acceptable substitute, and we would be happy to accept it.

Mr. FUNDERBURK. Thank you.

Chairman GILMAN. Anyone else care to be heard on Funderburk? Mr. Moran.

Mr. MORAN. I am not going to oppose this amendment either, because I do not think it is a major change. But I do not think it is a particularly constructive change either. We are telling another country, a people, when they should establish elections, we are setting parameters, and we do not know what the situation is going to be, and we do not know whether that is really in the long-term best interests of establishing a stable democracy in Cuba.

I do not see why it is necessary to do this. I think providing flexibility and support to the democratic process is far more important than dictating specific datelines and the like. In fact, I think it is a presumptuous and arrogant thing for us to be doing, although there is substantial precedent for us to have done it in other situations.

But I do not think, as I say, it is that big a deal that it is worth opposing the amendment. Thank you, Mr. Chairman.

Chairman GILMAN. Does the gentleman yield back the balance of his time?

Mr. MORAN. Oh, I do. I sure do yield it back.

Mr. SMITH. Mr. Chairman?

Chairman GILMAN. Who is seeking rec—Mr. Smith.

Mr. SMITH. Mr. Chairman, I rise in support of the amendment. The standards for a transitional government should be very high, in my view. A commitment to organize an election within 1 year should provide a realistic, achievable target, and at the same time show a seriousness of the Congress about promoting democracy in Cuba.

It also makes us more consistent with the Cuban Democracy Act. Clearly, it should not take two years for a transitional government to hold an election. This is consistent with what we have seen in Eastern Europe as well, and I do think it is an important modification, and I commend the gentleman for offering it.

Chairman GILMAN. The question is now on the Funderburk Amendment. All in favor, signify in the usual manner.

[Chorus of ayes.]

Chairman GILMAN. Opposed? The amendment appears to have carried. The amendment is agreed to. Mr. Berman.

Mr. BERMAN. Mr. Chairman, I have an amendment at the desk.

Chairman GILMAN. The clerks will distribute the amendment. The clerk will read the amendment.

Ms. BLOOMER. Amendment to the Amendment in the Nature of a Substitute to H.R. 927—

Mr. BERMAN. Mr. Chairman, I ask consent that the amendment be considered as read.

Chairman GILMAN. Without objection, the amendment is considered as having been read.

Mr. BERMAN. Yes, Mr. Chairman.

Chairman GILMAN. Mr. Berman is recognized for 5 minutes on this amendment.

[Mr. Berman's amendment appears in the appendix.]

Mr. BERMAN. I thank the chairman. When we passed the Cuban Democracy Act in 1992, we legislated a whole new series of stiff, civil penalties to deal with people who violate the embargo and who would seek to travel to Cuba for commercial purposes or for tourist purposes.

We specifically and unanimously exempted from those civil penalties travel for news gathering and well-defined educational, human rights, and religious activities, as defined by the administration, limited in frequency, duration, and number of participants.

The bill before us knocks out that exemption. It was done unanimously in 1992. It made sense. As we tighten the economic noose, I think it is in our interest to promote these kinds of individual visits which do not constitute either tourism or efforts to promote commercial interests in Cuba, and I would ask the committee to vote for it.

Ms. ROS-LEHTINEN. Mr. Chairman?

Chairman GILMAN. Who is seeking recognition? Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you. Mr. Chairman, this amendment would prevent the United States from checking to make sure that those traveling to Cuba are really not trying to merely keep the dictatorial regime in power. The purpose of the language being deleted by this amendment is not to punish those with a proper purpose in traveling to Cuba, but simply to require them to get licenses so that the travel requirements are not abused.

This is certainly an important issue. If this amendment is adopted, then everyone who wishes to travel to Cuba to help Castro stay in power will simply say whatever they need to say to get to Cuba.

If news gathering is an exception to the restriction, then suddenly they are for news gathering, or they will be educators or students or human rights activists. Whatever, whatever it takes, they will be because there is no way to stop them if this amendment is adopted.

I think what we have in place assures that people get the licenses and then they can travel, and certainly this amendment would open too wide a door for the Treasury Department to, in essence, just not have much of an embargo in place at all.

Mr. BERMAN. Will the gentlelady yield?

Ms. ROS-LEHTINEN. Yes, sir.

Mr. BERMAN. I appreciate the yielding. Anyone who would travel beyond the purposes of this exception would be, and still would be, even if this bill were to pass with my amendment, subject to criminal penalties; and if they exceeded the definition, would be subject to the civil penalties.

The way to deal with pre, pretrip approval versus after-the-fact punishment is not to wipe out the exemption; it is to deal with the administrative processes. This is an amendment that we all supported in 1992, and some of us who felt strongly about this cast the critical votes that passed the Cuba Democracy Act on suspension in 1992.

Ms. ROS-LEHTINEN. Thank you. If the gentleman will, just to reclaim my time, although I understand your reservations about the current restrictions, in reality, the way that—

Mr. BERMAN. No. The current restrictions are fine.

Ms. ROS-LEHTINEN. Well, the problem is that clearly defined educational activities. The California bar could have a seminar in the beaches of Cuba defined as an educational activity, and if there are educational activities here in the United States, they could go and say to the Treasury Department or other departments, this is clearly an educational enterprise, and we would soon see an influx of, really, vacation travel designed to meet the, the levels set forth upon your amendment.

Mr. BERMAN. Would you yield just to—

Ms. ROS-LEHTINEN. Of course.

Mr. BERMAN. I do appreciate that. This is not about what groups say; it is about what the facts are. The law has been in place for 3 years, with your support and the entire committee's support, this exemption for civil penalties.

The California Bar did not take a cruise in Cuba during those 3 years. No one would—there is no effort to prohibit the administration, either through the criminal processes or through the civil penalties, if they had gone beyond this exemption from, from remedying any effort to recall—

Ms. ROS-LEHTINEN. If I could reclaim my time, the problem is that that enforcement is really—even though it might be in the books about any penalties, it really has not been enforced, and they constantly have refused the requests to enforce these penalties, so I think that this opens too wide a door to other organizations who, lamentably, will abuse your intentions and will open too wide a door, and I yield back, Mr. Chairman.

Mr. PAYNE. Mr. Chairman?

Chairman GILMAN. Mr. Payne.

Mr. PAYNE. Yes. I will yield time to Mr. Berman.

Mr. BERMAN. I appreciate the gentleman seeking time and yielding it to me. There are criminal penalties which have been in the law for a long time under the Trading with the Enemy Act and which we have never sought to repeal.

There are civil penalties that went into effect in the Cuban Democracy Act, a bill that passed by only a couple of votes with all of us supporting it back in 1992 which imposed new serious civil penalties for the very reason the gentlelady from Florida mentioned: because no one was ever using the criminal prosecution to cover violations of the economic embargo and violations of the travel restrictions for commercial or tourist travel.

It was generally agreed that it is a good thing for human rights organizations for this kind of contact to be made. Never in the coldest days of the cold war with the Soviet Union and the Soviet bloc and the countries behind the iron curtain did we ever seek to cut this kind of travel out.

And, in fact, as people have described reasons why the iron curtain fell, the effort of Westerners to make contact with dissidents in those countries helped to promote the decline and the elimination of the Soviet Union and the end of the cold war.

We have had no evidence of abuse over the past 3 years. We made an agreement to build support for the Cuban Democracy Act in 1992 without evidence of disagreement with the fact that the civil penalties apply to anyone who exceeds the terms that are pro-

vided here, reasonably limited in frequency, duration, and number of clearly defined education or religious activities or activities that recognize human rights.

They are subject to the civil penalties, and the administration, the Treasury Department can go after them if they violate those terms, and we have had no evidence that it has been abused, so I would ask the committee to keep faith with the agreement that was made back in 1992 that passed the Cuban Democracy Act and do not change this when no evidence of any reason to change these exceptions has been given.

Mr. PAYNE. I am reclaiming my time. I could not agree more. I think that the opportunity to have the proper type of exchanges as has been mentioned, the whole period of "glasnost" and "perestroika" in the Soviet Union, the opportunity to meet with refusniks started the whole immigration to the United States of Jewish dissidents, and the opportunity to visit some of the areas where people were being contained in areas and not given the opportunity to, to travel outside of areas, I think would give the proper type of religious educational opportunities to, to sort of perhaps be a catalyst toward this—the day when it is a post-Castro regime. And so I concur with the gentleman from California.

Chairman GILMAN. Mr. Burton.

Mr. BURTON. Mr. Chairman, I rise in opposition to the amendment. I do not believe, with all due respect to my good friend, Mr. Payne, that Castro has ever accepted "glasnost" or "perestroika", so I do not think we are talking about the same kettle of fish.

But getting back to the amendment, without civil penalties, there will be no enforcement, because the Justice Department has not and will not enforce criminal penalties, even since the Cuban Democracy Act passed. The Department of the Treasury needs civil penalties in order to have any credible enforcement of travel restrictions.

I might add that Wendy Sherman from the State Department, when she sent a letter to us regarding problems that she had with the bill as it was drafted at the time, said this, and I quote: "The administration supports provisions in Section 102, enhancing the use of civil penalties for the enforcement of travel restrictions and other provisions of the embargo, particularly as amended by Representative Burton at the Western Hemisphere Subcommittee Markup of March 22."

So the administration has spoken in favor of the provision we have in the bill. I quote that to you because the President is on the right side of this one.

Chairman GILMAN. Is there anyone else seeking recognition? If not, all those in favor of the Berman Amendment signify in the usual manner.

[Chorus of ayes.]

Chairman GILMAN. Opposed? The amendment is agreed to. Mr. Wynn.

Mr. WYNN. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman GILMAN. Would the clerks distribute the amendment, please? The clerk will read the Wynn Amendment.

Ms. BLOOMER. Amendment to the Amendment in the Nature of a Substitute offered by Mr. Wynn. On page 42, beginning on line 18, strike "as well as freedom to visit them"——

Mr. WYNN. I am sorry. I wanted the other amendment, on international——

Chairman GILMAN. The clerks are distributing the wrong——

Mr. WYNN. I apologize to the clerk.

Chairman GILMAN. The clerks will distribute the other Wynn amendment. The clerk will read the Wynn Amendment.

Ms. BLOOMER. Amendment offer by Mr. Wynn. On page 20, strike line 21 and all that follows through page 21, line 25, and insert——

Mr. WYNN. Mr. Chairman, I move that the amendment be considered as read.

Chairman GILMAN. The amendment, without objection, is considered as read. Mr. Wynn is recognized on his amendment.

[Mr. Wynn's amendment appears in the appendix.]

Mr. WYNN. Thank you, Mr. Chairman. This amendment, I think, is a very important amendment. It basically does two things. First, it would revise section 104(a) of the bill to give the President more flexibility to support Cuba's membership in international financial institutions once a transition is in power.

On several occasions today, we have talked about the need to support the transition government. The basic difference with the bill would be that we could support Cuba's membership once a transition government is in place, as opposed to once a democratically elected government is in place.

On page 51 of the bill, the conditions for a transition government are laid out rather quickly, and I think it makes it very obvious that a transition government is an institution that we would want to support. They could certainly use the assistance from the international financial institutions that might be available to them, and I believe this approach is consistent with the thinking that the community has expressed thus far today.

The second element of the bill would delete the section that would require that the United States withhold payments to an international financial institution in an amount equal to any loan that the institution might make to Cuba over the opposition of the United States.

This is simply a matter, I think, of setting a bad precedent with respect to international financial institutions. We would not want similar members withholding their payments on the grounds that they disagreed with the individual loans.

It seems to me that the thrust of the bill is very effective in tightening the noose, if you will, around Cuba, but to interfere in the operation of international institutions by withholding our payments, as I indicated, would set a very bad precedent. Other members would take similar actions.

I believe these two approaches significantly strengthen the bill, particularly with respect to supporting financial institutions, and I would yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Chairman?

Chairman GILMAN. The gentleman yields back the balance of his time. Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you, Mr. Chairman. The key feature of this amendment, unfortunately, is that it eliminates the provision which would reduce U.S. aid to these financial institutions if they make loans to Cuba over the objections of the United States. And this weakens drastically an important part of the bill.

Loans or credits to Cuba under Castro would only serve to maintain the tyrant in power and extend the suffering of the people of Cuba. Aid to help the Cuban economy will be of no help, for the underlying problem of the economy is its socialist and command-control aspect. The Cuban economy will only prosper when reforms, true reforms toward a dramatically different, a free-market system are implemented.

And Castro has shown no inclinations for doing this, and his so-called reforms, however modest they may be, are actually even only designed to improve his image in the international community but not in any way to substantially change the structure of his failed economy.

Moreover, the small economic reforms that have been accompanied with actually no political reforms whatsoever is clearly shown by the mock elections which he held just a few days ago. The people are still at the mercy of the will of Fidel Castro, and the United States should not allow U.S. taxpayers' money to be invested in these institutions that go toward helping a cruel and totalitarian dictator such as Castro.

So I think that eliminating that provision which reduces U.S. aid to these international institutions who continue to make loans to Cuba in spite of U.S. objection is a very important part of our bill, and we should not weaken, as well intentioned as Mr. Wynn's amendment might be. Thank you, Mr. Chairman.

Mr. WYNN. Would the gentlelady yield?

Ms. ROS-LEHTINEN. Yes, sir.

Mr. WYNN. Thank you. I do not disagree to anything that the lady has said with respect to the Castro regime. She is actually right. We should do everything within our power to withhold assistance to the Castro regime, so I do not think we have a philosophical disagreement on that point.

The disagreement apparently is over how we conduct ourselves and these international financial institutions. And my point is that while we should do everything we can to make sure that Cuba is not given loans, and we do have a great deal of persuasive power, I believe, in these international institutions, that we should not take the attitude that if we do not win, we will take our ball and go home, which would be the effect of the current language.

Ms. ROS-LEHTINEN. Thank you. The gentleman——

Mr. WYNN. If I could just make, make——

Ms. ROS-LEHTINEN. Go ahead.

Mr. WYNN [continuing]. Make one quick final point. I think we can block loans to Cuba very successfully, but I think if we do not, and for some reason a loan is made, to say that we are not going to pay our dues sets a bad precedent.

There will be other occasions which we are trying to encourage loans to our allies and supporters, and if other member institutions can say, Well, the United States does not pay when it does not like

a loan, then we will do the same thing, I think it would ultimately lead to the disintegration, if you will, of these institutions.

Ms. ROS-LEHTINEN. Thank you. If I may regain my time,—

Mr. WYNN. Certainly.

Ms. ROS-LEHTINEN. My fear, Mr. Wynn, is that, as reported recently in a "Wall Street Journal" article, it has been reported that Castro's economic reforms are actually similar to reforms that have been espoused by the International Monetary Fund in other countries.

That is what this the "Wall Street Journal" article says, and my fear is that supporters are going to argue that Castro is already following IMF policies in regards to economic reforms and thus aid from these international financial institutions will complement those supposed reformist economic steps that he has taken.

And as ludicrous as those steps are, there are people out there ready to certify that Castro is taking those valiant steps toward economic reform, and you will have these international financial institutions just jumping at the chance to help Castro, and I think U.S. taxpayers' dollars should be protected so that if they want to help Castro, that is fine, but we should withdraw that amount of aid from these institutions if they want to help Castro.

If they want to do it, that is fine, but if it is funded by U.S. taxpayers' dollars, I think that that will be an indirect help that our constituents are giving to a failed dictatorial regime. And I will be glad to continue to yield to the gentleman.

Chairman GILMAN. The time of the gentlelady has expired.

Ms. ROS-LEHTINEN. Thank you.

Chairman GILMAN. Is anyone else seeking recognition?

Mr. HAMILTON. Mr. Chairman?

Chairman GILMAN. Mr. Hamilton.

Mr. HAMILTON. I just want to speak a word in support of the Wynn Amendment for two reasons, really. First of all, I think, as the gentleman from Maryland has very well said, the amendment does give the President greater ability and flexibility to support a transition in Cuba. As I understand the bill, it provides that they can get aid if there is a democracy there; but the question is whether or not a transition government that might not qualify completely as a democracy could get the aid.

A terribly complex historical process could be under way, and you should give the President some discretion as to how he should proceed there. The experience, I think, in Eastern Europe was that early involvement of international financial institutions sped up a difficult transition to a market and a private-based sector economy.

It seems to me you might very well be confronted with the same thing here, and to shut off the possibility of the President to intervene there seems to me to be unduly restrictive. If any transition in Cuba is going to be peaceful and going to succeed, I think it is going to need the help of some of the international financial institutions, and they can make a huge difference in Cuba once a transition is under way.

Now, I really do not fear that the international financial groups will loan money to Mr. Castro. The policy of the U.S. Government today is to oppose Cuban membership in the international financial

institutions. I think that is the right policy, and it should be maintained.

Secondly, I think the amendment keeps the bill consistent with U.S. charter obligations to international financial institutions. I am well aware of the attitudes in this house about U.S. international obligations, but for a long time we used to attack the Communist countries for treating obligations as a scrap of paper.

Now, that is precisely what we are in the process of doing. We are treating our obligations as a scrap of paper. A provision to reduce U.S. funds to the IMF or the World Bank, if those institutions lent to Cuba over U.S. objections, would violate the charter of those institutions, and such a provision, I think, would undermine U.S. leadership at a time when we are leading the effort to reform those institutions.

So I think, on those two bases, the Wynn Amendment deserves the support of this committee; and, Mr. Wynn, I certainly hope you have a little better luck with your amendment than I had with mine a few hours ago. Thank you very much.

Chairman GILMAN. The gentleman's time has expired. Is anyone else seeking recognition? Mr. Burton.

Mr. BURTON. The real purpose of the bill is to send a very strong signal to a number of foreign entities that it is in their best interest not to do business with Fidel Castro; not to loan him money, not to buy confiscated U.S. property, and so forth.

We have tried to make every provision in the bill point in that direction, to let people know that dealing with Castro will have an adverse impact on them or their investments or loans. I think this provision in the bill is very important to send a straight signal to the IMF, the World Bank, and all these financial institutions that if they start loaning money to this dictatorship before it becomes a democracy, then there will be a penalty imposed.

By getting this message out, we continue to keep Fidel Castro from getting the hard currency he needs to survive. When he gets hard currency, it does not go to his people; it stays in his government for control.

And, with that, I yield back the balance of my time.

Chairman GILMAN. The gentleman yields back the balance of time. Is anyone else seeking recognition? If not, the question is on the Wynn Amendment. All in favor, signify by saying aye.

[Chorus of ayes.]

Chairman GILMAN. All those opposed, signify by saying no.

[Chorus of noes.]

Chairman GILMAN. Apparently, the amendment is not agreed to. Mr. Moran.

Mr. MORAN. Well, thank you, Mr. Chairman. I have an amendment at the desk.

Chairman GILMAN. The clerks will distribute the amendment.

Mr. MORAN. If it does not break the back of our able staff here, she will distribute it.

Chairman GILMAN. The clerk will read the amendment.

Ms. BLOOMER. Amendment offered by Mr. Moran. On page 12, beginning on line 13—

Mr. MORAN. I ask unanimous consent that the amendment be considered as having been read.

Chairman GILMAN. Without objection, the amendment is considered as having been read. Mr. Moran is recognized for 5 minutes in support of his amendment.

[Mr. Moran's amendment appears in the appendix.]

Mr. MORAN. Well, thank you very much, Mr. Chairman. First of all, let me join the parade of people commending Mr. Menendez for the hard work that he has put into this bill and, particularly, into Title II. You wrote this Title II yourself, didn't you, my friend from New Jersey? This is an excellent job, and I should say that if I were in Mr. Menendez's shoes, I would probably be walking the same path as he.

The ideas in Title II of this bill are certainly right on target. The Cuban people need to know that the United States stands ready to assist them in what is sure to be a very difficult transition, and we ought to start preparing now for that change in Cuba, which is inevitable.

The problem with Title II, though, is that it is too rigid and that, in fact, the rigidities within Title II undermine its very purpose. Title II would prevent the President of the United States from providing assistance to a transitional government in Cuba until that transition is totally complete.

And so, we would be frozen out of a process in which we have a very vital interest. The criteria are appropriate, and, in fact, they are laudable for what considerations the President should take into account in weighing any decision about providing assistance and how much assistance should be provided for Cuba.

The problem is that the bill says that you have to meet all of those criteria before you can provide any assistance, and so what we would be doing is creating a situation where we would have to be watching on the sidelines instead of actively participating in the transition to a democratically elected and stable government in Cuba.

The amendment that I have offered, Mr. Chairman, enables us to act instead of watch. It enables the President to consider all of these laudable criteria—there are 18 of them, 18 fundamental criteria—necessary before—making the decision as to how we should assist Cuba's transition to democracy.

It corrects what I think is an unintended deficiency in that it does not require that all of the criteria be met in totality before we engage in the process, and it is consistent, this amendment is, in the way in which we have assisted change in democracy throughout Eastern Europe.

It also enables, actually, it requires the executive branch to produce a plan within 6 months, 180 days, so that we can know in advance what we are going to do. We will be prepared to do that, and it requires that that assistance plan be regularly updated. It also takes a more realistic approach to international agreements such as NAFTA.

I think it is unrealistic to think that Cuba can join NAFTA immediately, given the economic chaos that exists in Cuba today. In recognizing that, it encourages the changes necessary so that Cuba could eventually participate in the NAFTA agreement. I think it is a reasonable, moderate amendment that takes into consideration

the best elements of this bill but implements them in a fashion that is consistent with appropriate American leadership.

It lets us exercise judgment as to which of these criteria have been met, whether they have been properly met, and how we can assist in a process that all of us agree ought to take place. It does not tie our hands in an unreasonable fashion and put us in a situation where we would have to be standing on the sidelines when a very important process will be taking place in an island to the south of us in which we have vital interests.

So I would urge support for this amendment and appreciate the opportunity to introduce it, Mr. Chairman.

Ms. ROS-LEHTINEN. Thank you. I would like to recognize myself, and then I will go to the other side and then yourself, Mr. Manzullo. I would hope that the committee would reject this amendment because it allows too much flexibility, as it would allow the President to completely weaken the embargo dramatically without the transitional government in place proving that it is, in fact, earnest working toward democracy.

This bill would, in fact, eliminate all the congressional power to balance that great amount of discretion given to the President regarding the relaxation of the embargo. And given the board permission given to the President to modify the embargo, the White House could virtually eliminate almost all of the embargo, just as long as they claimed that positive developments are being made by a transitional government.

But claims are not enough, and this amendment does not clearly define what positive developments would be, and the language is too broad, and I would hope that the committee would reject the, the amendment. And I would like to recognize Mr. Payne for 5 minutes.

Mr. PAYNE. Thank you. Let me say that I support the gentleman from Virginia and his amendment. I think that it would be of assistance during the transition period, as recently in South Africa when the sanctions bill was removed, we then started to move in support of the government-to-be.

It preceded the actual election of a nonracial, democratic society in South Africa, but during the transition period when there is much need of support, the engines can start to turn to be supportive of the action. And so I would support it but would yield the balance of my time to the gentleman from Virginia.

Mr. MORAN. Thank you very much, Mr. Payne. I appreciate that. The only thing I would request is that we might hear from the administration on the administration's point of view with regard to this amendment.

Ms. PATTERSON. I am Anne Patterson. I am deputy assistant secretary for inter-American affairs. We strongly support Mr. Moran's amendment, which we think would give us flexibility to respond to a rapidly changing situation, and we welcome the opportunity to prepare a plan for the transition in Cuba, and we hope to work closely with this committee.

But I think the bill, as now written, is overly strict in its definition of a transitional government. In our experience in places like Haiti and Panama—Haiti, most recently—has shown that the administration will need to move very quickly to propose assistance

in areas like police training, judicial reform, building of political parties that perhaps could not await, the definition of a transition government.

We would want to be able to respond with maximum flexibility. We would also, I think, be precluded from providing balance of payment support under these provisions. That also is a critical component of economic reform programs, and we would want to move very, very rapidly before perhaps all these conditions have been met.

I would like to add one thing. We have been told that we could come back to Congress for authorization to proceed with these activities should the situation in Cuba start to change, but I think we need to emphasize the need for speed in some of these, these criteria.

Mr. MORAN. So you are in full support of this amendment—

Ms. ROS-LEHTINEN. Full support of your amendment.

Mr. MORAN [continuing]. Because of the flexibility it provides.

Ms. ROS-LEHTINEN. For flexibility.

Mr. MORAN. Thank you. And I thank my friend from New Jersey for yielding to me.

Ms. ROS-LEHTINEN. Thank you. The gentleman's time has expired. Mr. Manzullo.

Mr. MANZULLO. My questions have been answered. Thank you.

Ms. ROS-LEHTINEN. Thank you. Mr. Menendez?

Mr. MENENDEZ. I thank the chair for recognizing me. Let me just say I, I appreciate the gentleman from Virginia's kind words. It reminds me of a passage from "Julius Caesar": "I did not come to praise Caesar; I came to bury him."

And the fact of the matter is that that is what this amendment does: it buries Title II, and, in essence, for all intents and purposes, is a revote of Mr. Roth's amendment. Let me describe why.

The fact of the matter is that, again, Title II produces a plan. It mandates a plan, and it mandates certain things to be in that plan, but it does not say the President can go beyond that and include a whole host of things that he, or she, in some future President, may, in fact, decide is important to go ahead and include in a plan.

What, in essence, Mr. Moran does, and I appreciate his kind words, but, for all intents and purposes, and I have not had a chance to review all of it, and it is quite extensive. I do not know exactly what is left in the plan and what is not, but the bottom line is—I know that there are some significant changes I can see—the bottom line is, in fact, that there is a dramatic change.

We do not have—what we did, those of you who voted to preserve Title II, and against Mr. Roth's amendment, I would urge you to do the same in this amendment, because, for all intents and purposes, it is the same. And I would ask, Mr. Chairman, if Ms. Patterson would come to, come to the table so that I could ask her some questions.

First of all, do you, meaning the administration and the State Department, do you have problems enforcing the Freedom Support Act?

Ms. PATTERSON. No, certainly not.

Mr. MENENDEZ. Do you support the Freedom Support Act?

Ms. PATTERSON. Certainly.

Mr. MENENDEZ. Do you support the Seed Act?

Ms. PATTERSON. Yes. Certainly.

Mr. MENENDEZ. Well, those acts, the Freedom Support Act, which you have just told the administration it supports, says it mandates a coordinator to design and oversee an assistance program. It mandates reports to Congress, it mandates an assistance plan to the former Soviet Union. It mandates annual reports on U.S. aid to the former Soviet Union, and it goes into what that report has to include.

It mandates a prohibition of assistance to the state of the former Soviet Union, withholds religious or historic documents. It mandates the secretary of commerce to submit a report in detailed analysis of other countries' business transactions through Cuba.

It mandates grants through a democracy core. It has a series of mandates, and if you would look at the Seed Program, which you just told me the administration supports, it has 50 specific uses of "shall," including mandating a program of assistance again, mandating stabilizing assistance and debt relief, mandating agricultural assistance, mandating labor-related technical assistance, mandating private sector development assistance, mandating Peace Corp volunteer assistants, mandating OPEC assistance, mandating Eximbank.

The bottom line is I hear there is no flexibility. I do not do half of what the Seed Act does—and I thank you for your answers. I do not mandate half of what the Seed Act or the Freedom Support Act, which members of this committee, I think including the members who are now opposed to this section, voted for. I do not understand.

And the administration has told me, Oh, if only we had supported your bill, which was in the last Congress. I am losing my time, so I am sure somebody else will give you your chance.

If only we had supported your bill. Well, that is what basically Title II is. That is what basically Title II is. So I have the greatest respect for the gentleman from Virginia, although we agree—disagree extensively on this issue. But the bottom line is if you voted to preserve Title II against the Roth Amendment, you would be reversing yourself if, in fact, you vote for this amendment.

Mr. BURTON. Madam Chairwoman, why don't you go ahead and recognize Mr. Wynn?

Mr. WYNN. Thank you, Madam Chairwoman. I am a bit confused, and I wanted to hear from the administration, because my general sense is that the two approaches are not incompatible, but yet, listening to the sponsor of this section, whom I greatly respect for his efforts, apparently there is some incompatibility. Could you comment on that?

Ms. PATTERSON. We have no objection to many of the provisions that Mr. Menendez is referring to. The preparation of a plan, we fully support. The reporting requirements, of course, we have no objection to.

The difficulty we have with this bill is the very strict definition of a transition government. There are three pages of conditions that would have to be met before the assistance program can kick in, and that would be very restrictive.

In some cases, for instance, in Haiti, we wanted to give assistance within the first few weeks. Certainly for police training, that was a critical element. Certainly for military assistance; we might want to give military assistance.

We could not do that under the strict definition of a transitional government in Title II of this bill. Mr. Moran's amendment would fix that and give us more flexibility—

Mr. MENENDEZ. Would the gentleman yield on that point?

Mr. WYNN. Yes. I would be happy to.

Ms. PATTERSON [continuing]. Factors to be considered in a transitional government.

Mr. MENENDEZ. Well, Ms. Patterson, just so to elucidate further, you mentioned Haiti. Haiti had a democratically elected government. We were returning the democratically elected government and therefore assisting not a transitional government, but a democratically elected government. How is the analysis equal?

Ms. PATTERSON. Yes, sir. But I think, again, Haiti could not have met all those conditions, even though you had a democratic—

Mr. MENENDEZ. But they were not the conditions for a democratically—

Ms. PATTERSON. And also—

Mr. MENENDEZ. They were not—and, also, you are talking about a transitional government. Haiti was a democratically elected government. I thank the gentleman for yielding.

Mr. WYNN. I am glad to yield to the gentleman. If I am understanding you correctly, basically, you believe the Moran Amendment provides more flexibility to the administration by saying that all of the criteria do not have to be met.

Ms. PATTERSON. It says there are factors to be considered in defining a transitional government, but does not make them mandatory. It, in effect—

Mr. WYNN. Are there any mandatory—and I have not had a chance to go through Mr. Moran's amendment in its entirety—are there any mandatory requirements for a transition government?

Ms. PATTERSON. No. They would all be factors to be considered under Mr. Moran's amendment, and it would enable us to provide just the sort of assistance that Mr. Menendez wants us to provide.

Mr. WYNN. But without any mandatory condition.

Ms. PATTERSON. Without any mandatory requirements. They would all be—they would be factors the administration would take into account in making its determination of a transition government.

Mr. WYNN. Other than Haiti, are there any other examples of this approach toward a transition government where the administration has this kind of wide flexibility?

Ms. PATTERSON. Well, the administration generally has wide flexibility in providing assistance in El Salvador. And Panama was another case where we restored the democratic government, but it certainly could not have met these requirements.

It will be a definitional battle when we come to certifying what is a transitional government. That is what we are trying to avoid, an extended debate over what is and what is not—

Mr. HAMILTON. Would the gentleman yield after she responds?

Mr. WYNN. Yes. Were you finished?

Ms. PATTERSON. Yes, sir. I would be happy to yield.

Mr. HAMILTON. As you read Title II today, do you think it prevents the President from providing assistance to a transition in Cuba until that transition is complete?

Ms. PATTERSON. We fear that it might, Mr. Hamilton.

Mr. HAMILTON. So the effect of Title II, in your judgment, as it is now written in the bill, would be to freeze the United States out of the process of trying to help Cuba once change has begun.

Ms. PATTERSON. That is our concern, Mr. Hamilton, that we would not be able to respond to a rapidly evolving situation in Cuba.

Mr. HAMILTON. So, instead of being able to act to help the transition in the direction we would like it to go, the United States is frozen out of the action here and would just simply have to watch it.

Ms. PATTERSON. Yes, sir. Any assistance we might wish to give, we would be paralyzed, in effect, and could not move forward until we debated what, and what is not, a transition government.

Mr. HAMILTON. And the amendment that Mr. Moran has offered would enable the President to respond to positive developments in Cuba quickly and effectively in a process that is bound to be imprecise and even messy.

Ms. PATTERSON. In a highly targeted situation with a highly targeted assistance program.

Mr. HAMILTON. I thank you.

Ms. ROS-LEHTINEN. Thank you. The gentleman's time has expired. Mr. Burton.

Mr. BURTON. Thank you, Madam Chairman. This is very similar to the debate we had a couple of hours ago. There is some troubling language on page 4 of section 14 of Mr. Moran's amendment. It says "to be prepared to modify the economic embargo against Cuba in carefully calibrated ways in response to positive developments in Cuba" and so on.

My concern is that with this kind of language, the administration unilaterally could start taking steps to lift the embargo, normalize relations with the Castro government, and circumvent large sections of the current bill and the intent of the bill.

For that reason, I think this amendment is not as good as the Roth amendment. As Mr. Menendez said, if you voted against the Roth Amendment, you certainly should vote against this amendment because this amendment goes even further in limiting the effectiveness of the embargo and this piece of legislation. And, with that, I will be happy to—

Ms. ROS-LEHTINEN. Would the gentleman yield?

Mr. BURTON. I would be happy to yield to my colleague.

Ms. ROS-LEHTINEN. Would the gentleman not agree that it is startling to hear that too strict a definition is being used is one of the reasons to be for this amendment, that the transition government is too strictly defined.

Would the gentleman not agree that certainly it would be important for us to make sure that we would have the right to independent political activity and association in this transitional government, that the transitional government would release all political prisoners, would cease interference with broadcasts, would make

public commitments for the right of free speech, would recognize human rights and basic freedoms?

Would not the gentleman agree that that is certainly not too strict a definition of a transition government, and it would be in the U.S. interest to make sure that that is not a junta, a military junta or any other type of transition government, that it is really a transitional government that is truly moving toward free democratic reforms.

Mr. BURTON. Yes, I would agree with my colleague from Florida. Anyone who believes in human rights would certainly want those provisions put in the legislation to make absolutely sure that this transition government recognizes human rights and does not continue the policies or the practices of the Fidel Castro government.

And, with that, Mr. Chairman, I will yield back my time.

Mr. HASTINGS. Mr. Chairman.

Chairman GILMAN. Is someone seeking recognition?

Mr. HASTINGS. Mr. Chairman.

Chairman GILMAN. Mr. Hamilton has requested time first. The gentleman is recognized for 5 minutes.

Mr. HASTINGS. Mr. Chairman, I yield to Mr. Moran.

Mr. MORAN. I thank my friend from Florida. I would just like to respond to some of the points that have been made.

In the first place, this does go beyond Mr. Roth's amendment, although I supported Mr. Roth's amendment because it did provide greater flexibility. This amendment would have the administration develop a plan within 6 months for how we would assist in a transition to a democratically elected government and to update that plan periodically.

In response to Mr. Menendez's question about what is in it, it retains all the best of intentions, and the original title, too, but it does not create a situation where, with all of the best of intentions, we might not be able to act constructively.

The reality is that all transitions, whether they be revolutions or whatever, are dramatic changes. All of them are messy; none of them are neat, and it is highly likely, probably inevitable that a transition to democracy in Cuba is going to be a messy, chaotic situation.

And anyone who wants to prevent our involvement in that transition will be able to find violations of these very fine intentions that are listed in Title II, and if they can show a violation, if they can show anything less than complete compliance, then, in fact, our hands are tied. We cannot engage in a constructive way in helping to effect a transition to a democratic and stable government in Cuba.

So I think we ought to trust the executive branch and the President to use these criteria, which are all appropriate,—we do not argue with the criteria—but to exercise some judgment. To use these criteria in determining whether or not it is in the United States' best interest to engage, to what extent to engage, when, and at what point, it would be in Cuba's and America's best interest to do so by the restrictive, rigid way in which Title II is crafted with all the best intentions.

We will be prevented from using our capability to bring about what is a mutual, common, agreed-upon national goal on the part

of the United States to bring about a democratic, stable government in Cuba.

And so what you are going to have if this amendment does not pass is the law of unintended consequences.

Chairman GILMAN. The gentleman's time has expired.

Mr. MORAN. And for that reason I urge support for this amendment. Thank you, Mr. Chairman.

Chairman GILMAN. The gentleman's time has expired. Before recognizing the next speaker, I would like to take a moment to recognize we have been joined today by Dr. Vassos Lesserides, a leader of the Cyprus Parliament. Welcome, Dr. Lesserides.

[Applause.]

Chairman GILMAN. Who is seeking recognition? Mr. Engel.

Mr. ENGLE. Thank you, Mr. Chairman. I yield my time to Mr. Menendez.

Mr. MENENDEZ. I thank the gentleman from New York for yielding. Let me just say that I listened to Ms. Patterson intently respond to Mr. Hamilton, and when Mr. Hamilton asked if, in fact, this would put—the language that exists in the bill would put the U.S. Government in the position of watching on the sidelines, her answer was—and I wrote it down—we fear that it might.

Well, that does not mean that it will. I do not understand how developing a plan of action which shall include some things but is open to do other things, in fact, puts us on the sidelines. For the first—for the first time, as a matter of fact, members of the State Department told me maybe we should consider this for other places in the world so we are prepared for transitions and acting proactively instead of acting reactively.

That is what this bill, in part, this section seeks to do: It attempts to act proactively, not reactively. Now, the argument has centered about what is a transitional government, and to the extent that that language that exists in the bill is problematic, but I would urge my colleagues who I know have great concerns of assisting the Cuban people and providing a plan for assistance to them because it is in the national security interest of the United States in the process of a transition and, ultimately, of a democratically elected government to look at the language on page 6, which takes the "shall's" that I had as it relates to the types of assistance in the plan and converts them to "may's."

On page 6(b)(1), assistance under this section for Cuba under a transitional government may include, and it goes on to list that which I had "shall include." And further on that page under a democratically elected government, it goes on to say assistance in related programs for Cuba under a democratically elected government in Cuba "may include" instead of "shall include."

Now, we have the "shall" in the plan so that we send a clear message to the Cuba people and the Cuba military that, in fact, we shall do the following things in our plan as the clear scope of definite possibilities. Here, under this language, there is no scope of possibilities, and so that is a major point.

The second major point is we want to continue to move, give the incentives to a transitional government to become a democratically elected government to move on its road to democracy. But, in fact, what is done here is I do not think that we make—pave the road

in such a way that we create the incentives to move on to a democratically elected government.

And so I would urge my colleagues that, in fact, when you have these two major changes, when you have the "shall's" becoming "may" as it relates to the plan, you have now watered down what you are telling the Cuba people may be possible.

And, secondly, I really have a real difficult time understanding the administration's position when, in fact, they deal with a series of mandates, both under the Seed Act and the Freedom Support Act. I yield back the balance of my time.

Chairman GILMAN. Gentlemen, gentlemen, the time has expired. Is anyone else seeking recognition? If not, the question is on the amendment. All in favor, signify in the usual manner.

[Chorus of ayes.]

Chairman GILMAN. Opposed?

[Chorus of noes.]

Chairman GILMAN. A roll call is requested. Will those in favor of roll call signify in the usual manner? The roll call vote is not agreed to.

All in favor of a roll call vote signify in the usual manner. The roll call vote is not ordered.

Mr. TORRICELLI. Mr. Chairman, I have an amendment at the desk that will take less than 1 minute, I hope. I think it is without any opposition.

Chairman GILMAN. The clerk will distribute the Torricelli Amendment. The clerk will read the amendment offer.

Ms. BLOOMER. Amendment offer by Mr. Torricelli. Add the following at the end of Title I. Section 111, Expulsion of Criminals from Cuba. "The President shall—

Mr. TORRICELLI. Mr. Chairman, I would ask unanimous consent that the amendment be considered as having been read.

Chairman GILMAN. The amendment is considered as having been read, without objection. Mr. Torricelli?

[Mr. Torricelli's amendment appears in the appendix.]

Mr. TORRICELLI. Mr. Chairman, without objection, I would ask that these two amendments be considered together, and I will explain them very briefly.

Chairman GILMAN. Mr. Torricelli is recognized on his amendments.

Mr. TORRICELLI. Mr. Chairman, each of these amendments deal with the reality that Cuba has become a haven for fleeing felons. Mr. Vesco's recent appearance in the news has given evidence to the fact that Castro has given safe harbor for a variety of fugitives. At last count there are 91 convicted felons who have fled the United States to Cuba.

My amendment does two things. First, when the U.S. Government officials meet with representatives of the Cuba Government, meetings which I oppose, but I recognize on occasion may, despite my wishes, occur, that this issue be raised.

And, second, that in Title II of the bill is a condition of U.S. assistance a new government in Cuba, a successor government, would have to participate in having these felons extradited to the United States.

I would hope, Mr. Chairman, this would be without opposition and want simply to note that among these 91 is Ms. Chesimard, who murdered a state trooper on the New Jersey Turnpike, and despite the fact was involved in a first-degree murder, is now living in Havana.

Mr. BURTON. Mr. Chairman?

Chairman GILMAN. Mr. Burton.

Mr. BURTON. Mr. Chairman, we reviewed this amendment. We think it is a welcome addition to the bill, and we urge its support.

Chairman GILMAN. Does the gentleman have any further debate? The question now is on the Torricelli amendments en bloc. All in favor, respond by saying aye.

[Chorus of ayes.]

Chairman GILMAN. Opposed?

[Chorus of noes.]

Chairman GILMAN. The Torricelli Amendments are agreed to. Are there any further amendments? If not, the——

Mr. TORRICELLI. Mr. Chairman.

Chairman GILMAN. Mr. Torricelli.

Mr. GEJDENSON. Mr. Chairman, I think that in fairness to Mr. Hamilton, I have some closing comments and there are other members who might want to be here. I do not want to hold it up, but I am informed by Mr. Hamilton and staff, especially with a vote going on, that it would be, I think, inappropriate to have a final passage vote in the midst of all the other confusion that has happened here. I know Mr. Burton will be happy to move to reconsider later. But I think the outcome is clear, and I am not trying to do this to stall it, but I think Mr. Hamilton——

Mr. TORRICELLI. If the gentleman will yield, could we now just keep the record open for people to submit comments?

Mr. GEJDENSON. Well, it is up to them. I am happy to, but I think Mr. Hamilton wants to vote.

Mr. BURTON. Mr. Chairman, is it proper to move the previous question?

Chairman GILMAN. The previous question is always available.

Mr. BURTON. Mr.—I move the previous question.

Chairman GILMAN. Well, let me just check if Mr. Hamilton—is Mr. Hamilton in—Mr. Hamilton is available. The previous question is being called for. Does Mr. Hamilton wish to make some remarks?

Mr. BURTON. Mr. Chairman, I reluctantly moved the previous question. People want to vote.

Chairman GILMAN. The motion is on the call for the previous question. All in favor, signify in the usual manner.

[Chorus of ayes.]

Chairman GILMAN. Those opposed? The previous question is agreed to.

On the amendment in the nature of substitute as amended, all in favor signify in the usual manner.

[Chorus of ayes.]

Chairman GILMAN. Opposed?

[Chorus of noes.]

Chairman GILMAN. The ayes appear to have it. A roll call has been requested. Signify in the usual manner your support for a roll call.

[Chorus of ayes.]

Chairman GILMAN. A roll call is ordered. The clerk will call the roll.

Ms. BLOOMER. Mr. Gilman?

Chairman GILMAN. Aye.

Ms. BLOOMER. Mr. Gilman votes yes. Mr. Goodling?

Mr. GOODLING. Aye.

Ms. BLOOMER. Mr. Goodling votes yes. Mr. Leach?

[No response.]

Ms. BLOOMER. Mr. Roth?

[No response.]

Ms. BLOOMER. Mr. Hyde?

[No response.]

Chairman GILMAN. I am going to interrupt a moment. This is a vote on the amendment in the nature substitute as amended. We will have to come back for a final roll call. Please come back for a final vote. Please continue the roll call.

Ms. BLOOMER. Mr. Bereuter?

[No response.]

Ms. BLOOMER. Mr. Smith?

Mr. SMITH. Yes.

Ms. BLOOMER. Mr. Smith votes yes. Mr. Burton?

Mr. BURTON. Aye.

Ms. BLOOMER. Mr. Burton votes yes. Mrs. Meyers?

Mrs. MEYERS. Aye.

Ms. BLOOMER. Mrs. Meyers votes yes. Mr. Gallegly?

Mr. GALLEGLY. Aye.

Ms. BLOOMER. Mr. Gallegly votes yes. Ms. Ros-Lehtinen?

Ms. ROS-LEHTINEN. Yes.

Ms. BLOOMER. Ms. Ros-Lehtinen votes yes. Mr. Ballenger?

Mr. BALLENGER. Aye.

Ms. BLOOMER. Mr. Ballenger votes yes. Mr. Rohrabacher?

Mr. ROHRABACHER. Yes.

Ms. BLOOMER. Mr. Rohrabacher votes yes. Mr. Manzullo?

Mr. MANZULLO. Yes.

Ms. BLOOMER. Mr. Manzullo votes yes. Mr. Royce?

Mr. ROYCE. Yes.

Ms. BLOOMER. Mr. Royce votes yes. Mr. King?

Mr. KING. Yes.

Ms. BLOOMER. Mr. King votes yes. Mr. Kim?

Mr. KIM. Yes.

Ms. BLOOMER. Mr. Kim votes yes. Mr. Brownback?

Mr. BROWNBACK. Yes.

Ms. BLOOMER. Mr. Brownback votes yes. Mr. Funderburk?

Mr. FUNDERBURK. Yes.

Ms. BLOOMER. Mr. Funderburk votes yes. Mr. Chabot?

Mr. CHABOT. Yes.

Ms. BLOOMER. Mr. Chabot votes yes. Mr. Sanford?

Mr. SANFORD. Yes.

Ms. BLOOMER. Mr. Sanford votes yes. Mr. Salmon?

Mr. SALMON. Yes.

Ms. BLOOMER. Mr. Salmon votes yes. Mr. Houghton?

Mr. HOUGHTON. Yes.

Ms. BLOOMER. Mr. Houghton votes yes. Mr. Hamilton?

Mr. HAMILTON. No.

Ms. BLOOMER. Mr. Hamilton votes no. Mr. Gejdenson?

Mr. GEJDENSON. No.

Ms. BLOOMER. Mr. Gejdenson votes no. Mr. Lantos?

[No response.]

Ms. BLOOMER. Mr. Torricelli?

Mr. TORRICELLI. Aye.

Ms. BLOOMER. Mr. Torricelli votes yes. Mr. Berman?

[No response.]

Ms. BLOOMER. Mr. Ackerman?

Mr. ACKERMAN. Aye.

Ms. BLOOMER. Mr. Ackerman votes yes. Mr. Johnston?

Mr. JOHNSTON. No.

Ms. BLOOMER. Mr. Johnston votes no. Mr. Engel?

Mr. ENGEL. Yes.

Ms. BLOOMER. Mr. Engle votes yes. Mr. Faleomavaega?

[No response.]

Ms. BLOOMER. Mr. Martinez?

[No response.]

Ms. BLOOMER. Mr. Payne?

Mr. PAYNE. No.

Ms. BLOOMER. Mr. Payne votes no. Mr. Andrews?

Mr. ANDREWS. Yes.

Ms. BLOOMER. Mr. Andrews votes yes. Mr. Menendez?

Mr. MENENDEZ. Yes.

Ms. BLOOMER. Mr. Menendez votes yes. Mr. Brown?

[No response.]

Ms. BLOOMER. Ms. McKinney?

[No response.]

Ms. BLOOMER. Mr. Hastings?

Mr. HASTINGS. Yes.

Ms. BLOOMER. Mr. Hastings votes yes. Mr. Wynn?

Mr. WYNN. No.

Ms. BLOOMER. Mr. Wynn votes no. Mr. McNulty?

Mr. McNULTY. Aye.

Ms. BLOOMER. Mr. McNulty votes yes. Mr. Moran?

Mr. MORAN. No.

Ms. BLOOMER. Mr. Moran votes no. Mr. Frazer? Mr. Leach? Mr. Roth? Mr. Hyde? Mr. Bereuter? Mr. Lantos? Mr. Berman? Mr. Faleomavaega? Mr. Martinez, Mr. Brown, Ms. McKinney? Mr. Frazer?

Chairman GILMAN. The clerk will report the tally.

Ms. BLOOMER. On this vote there were 26 ayes and 6 noes.

Chairman GILMAN. The ayes have it. The amendment is agreed to. Please return for a final vote right after the floor vote.

[Recess.]

Chairman GILMAN. The committee will please come to order. Members will please take their seats. By unanimous consent, the chair will recognize two final speakers: Mr. Hamilton for 5 minutes and Mr. Burton for 5 minutes. Mr. Hamilton.

Mr. HAMILTON. Mr. Chairman, I thank you for the way in which you have presided on the bill—I know it is a tough one—and I also want to thank my colleagues because I have never had any doubt at all about the votes here and how they were going to break, but

my colleagues who support this bill have been very gracious in listening to us in opposition, and I appreciate it.

What I wanted to do is to try to sum up very quickly, if I may, the reasons that I think this is a bad bill. This really is a radical shift in American foreign policy. We are not simply carrying on the policy of the last 36 years; we are tightening the noose on Cuba, and I think it seriously damages U.S. national interests from three distinct points of view.

Number One, by increasing the isolation of Cuba, the bill is going to make conditions in Cuba much worse than they are today. I think that is the intent of the bill. That is going to hurt the Cuban people, and it is going to help Castro. Indeed, it has already helped him. He has been going all over the island attacking this bill and getting support against the United States.

This bill provides Fidel Castro with a scapegoat, an excuse to continue his failed policies. And if we make the conditions in Cuba worse and the Cuban people become more desperate, then we increase the likelihood of a violent change in Cuba, and that is exactly what we do not want.

Secondly, I think this bill puts further isolation of Cuba above every other U.S. foreign policy goal. What we do with this bill is put Cuba at the center of the universe, so far as American foreign policy is concerned. There is not another government in the world that agrees with our policy on Cuba, and without the support of other governments, our policy cannot succeed there.

In the course of increasing Cuba's isolation, we are seeking to force other countries to go along. This bill will damage our relations with our allies—we have plenty of evidence of that; they have written to us in great numbers—damage our relations with our friends, our trading partners. It will violate NAFTA, which guarantees the free movement of business travelers throughout North America.

It undermines the United States' leadership in the World Bank and IMF. We go against our solemn obligations in these financial institutions and proceed as if they did not exist.

We put Cuba at the center of American foreign policy and every other relationship is made secondary to it; and I agree that Cuba is an important issue, but it ought not be paramount to every other issue of American foreign policy.

Third, I think the bill creates a whole new world of further bureaucratic legal red tape, and it will not achieve any concrete results. It vastly complicates the visa process. It establishes unenforceable new criterion for exclusion of aliens. Consular officers are going to be asked to make visa decisions, and they are not going to be able to do anything about it in the absence of authoritative or reliable information.

The bill is a litigation magnet. It will tie up U.S. courts for years to come, and it invites anyone who has had any property confiscated in Cuba for over the past 30 years, whether a U.S. citizen or not, to incorporate and file a lawsuit in the U.S. Federal Courts.

Finally, let me just say this. All of us here agree that Castro has to go. What has interested me again and again in this debate is how the proponents of the bill have focused on Fidel Castro. There

is not any disagreement: We all want Castro to go; we all recognize he has messed up that economy with his Communist dictatorship.

But the right focus is not to focus on Castro. The right focus is on the Cuban people and the transition to a peaceful democracy. That is where the focus of American foreign policy ought to be, not on Castro. We ought to be thinking about what the American national interest is. The American national interest is in a peaceful transition to a democratic government in Cuba, and I do not believe this bill is going to get us there.

So, a policy of contact, of dialogue, of exchange. It worked with Eastern Europe, it worked with the countries of the former Soviet Union, and it can work here. Those who favor an increased isolation of Cuba have a responsibility to explain why the policy of engagement that helped kill communism in Eastern Europe and the Soviet Union should not be the hallmark of our policy with regard to Cuba.

I urge my friends to vote against this bill, although I am realistic enough to know that that is not going to happen. I do appreciate the fact that they have listened attentively to us, and I think that we have tried to raise some questions that we obviously feel genuinely about.

I have problems with this bill, and as it moves toward the floor and into the conference committee, I hope that some adjustments can be made to it. I thank my colleagues.

Chairman GILMAN. I thank the gentleman for his remarks. The gentleman's time has expired. Mr. Burton.

Mr. BURTON. How much time do you need, Toby?

Mr. ROTH. Thirty seconds.

Mr. BURTON. I yield 30 seconds to my colleague.

Mr. ROTH. I thank my friend for yielding. What do you do when you have dear friends on one side of a bill and your country on the other side?

The reason I say that is because I would love to vote for this bill, but when you read this bill, the mandates and the onus on our taxpayers, it is just totally unconscionable, as I see it.

Go down the list of things that we are going to do for them: set up a new court and legal system, new civil service, new labor unions, restructuring the banking system, modernizing agriculture, fixing the health care system, and you can go on and on. We have heard in this debate we are not going to make promises that we are going to renege on.

This, yes, we have got to get rid of Castro, but what this is doing to our own taxpayers, I think is truly unconscionable.

Mr. BURTON. Mr. Chairman, I will—some of my time.

Chairman GILMAN. Mr. Burton is recognized.

Mr. ROTH. And I thank the gentleman for yielding. You are a good friend.

Mr. BURTON. Thank you, Toby. We went through all this, Toby, just a couple of hours ago, and so I will not rehash the arguments. Hopefully between now and the time the bill hits the floor, we can talk about some of your concerns, and we may be able to accommodate you. I do not know, but we are going to try.

Regarding the remarks of my good friend from Indiana, Mr. Hamilton, he said that we were going to make things much worse

for the Cuban people. The Cuban people are living on \$3 a month. What was once one of the most flourishing economies in the Caribbean is now the worst.

All the hard currency goes to Fidel Castro. We cannot make it worse for the Cuban people. It is as bad as it is going to get. What we can do is put tremendous pressure on Fidel Castro when he is denied the hard currency that he needs to survive, and that is what this bill is designed to do.

Cuba is not the center of the universe, but it is 90 miles from Miami. Castro has caused us problems throughout our hemisphere, in Latin America, in Africa, and in other parts of the world. He is a revolutionary, a die-hard Communist who will not renounce his one-party, totalitarian system. This bill is designed to put some additional nails in his coffin so that he goes a little more precipitously.

We have taken unilateral action in embargoes in the past, and our friends like France and Germany—take Iran, for instance—they have not gone along with us, but, nevertheless, we went ahead and did it.

Regarding the visa provisions in this bill, the 1994 State Department Authorization Bill does exactly the same thing that we are doing in our bill: denying visas to people who are trafficking in confiscated U.S. property, American people's property that was taken away by a communist dictator.

We had an embargo on South Africa. Many supported it; many opposed it. At the time we first came up with the idea, I had an alternative plan called black empowerment. My position did not prevail. The embargo was put in place. My good friend, Don Payne, and I argued many times about this issue.

The embargo worked. Embargoes do work, and I submit to you when the largest economic power in the world, certainly the largest in our hemisphere, puts the screws in to Fidel Castro, that embargo is going to have a very strong impact on him. This will be one of the final nails in his coffin.

I want to thank all my colleagues on this committee, both for and against, for a very good debate. I thank all those who worked so hard with me to get this bill passed through committee. I sincerely appreciate your help, both Republicans and Democrats. I hope you will work with us just as hard when we bring this to the floor and get it up for a final vote. Thank you very much.

Chairman GILMAN. The gentleman's time has expired. I thank the gentleman for his remarks. The chair now recognizes Mr. Burton to offer a motion. Mr. Burton.

Mr. BURTON. Mr. Chairman, I move that the committee report the bill H.R. 927 to the House with the recommendation that the bill, as amended, do pass and that the chairman take any and all steps necessary to bring the bill before the House.

Chairman GILMAN. The question is on the motion. As many as in favor, indicate by saying aye.

[Chorus of ayes.]

Chairman GILMAN. As many as are opposed, say no.

[Chorus of noes.]

Chairman GILMAN. The ayes appear to have it. The ayes have it, and the motion is agreed to. A roll call is requested. All those in

favor of roll call, signify in the usual manner. Opposed? The clerk will call the roll.

Ms. BLOOMER. Mr. Gilman?

Chairman GILMAN. Aye.

Ms. BLOOMER. Mr. Gilman votes yes. Mr. Goodling?

Mr. GOODLING. Aye.

Ms. BLOOMER. Mr. Goodling votes yes. Mr. Leach?

[No response.]

Ms. BLOOMER. Mr. Roth?

Mr. ROTH. No.

Ms. BLOOMER. Mr. Roth votes no. Mr. Hyde?

[No response.]

Ms. BLOOMER. Mr. Bereuter?

[No response.]

Ms. BLOOMER. Mr. Smith?

[No response.]

Ms. BLOOMER. Mr. Burton?

Mr. BURTON. Aye.

Ms. BLOOMER. Mr. Burton votes yes. Mrs. Meyers?

Mrs. MEYERS. Aye.

Ms. BLOOMER. Mrs. Meyers votes yes. Mr. Gallegly?

Mr. GALLEGLY. Aye.

Ms. BLOOMER. Mr. Gallegly votes yes. Ms. Ros-Lehtinen?

Ms. ROS-LEHTINEN. Yes.

Ms. BLOOMER. Ms. Ros-Lehtinen votes yes. Mr. Ballenger?

Mr. BALLENGER. Aye.

Ms. BLOOMER. Mr. Ballenger votes yes. Mr. Rohrabacher?

Mr. ROHRABACHER. Yes.

Ms. BLOOMER. Mr. Rohrabacher votes yes. Mr. Manzullo?

Mr. MANZULLO. Yes.

Ms. BLOOMER. Mr. Manzullo votes yes. Mr. Royce?

Mr. ROYCE. Yes.

Ms. BLOOMER. Mr. Royce votes yes. Mr. King?

Mr. KING. Aye.

Ms. BLOOMER. Mr. King votes yes. Mr. Kim?

[No response.]

Ms. BLOOMER. Mr. Brownback?

Mr. BROWNBACK. Aye.

Ms. BLOOMER. Mr. Brownback votes yes. Mr. Funderburk?

Mr. FUNDERBURK. Aye.

Ms. BLOOMER. Mr. Funderburk votes yes. Mr. Chabot?

Mr. CHABOT. Aye.

Ms. BLOOMER. Mr. Chabot votes yes. Mr. Sanford?

Mr. SANFORD. Yes.

Ms. BLOOMER. Mr. Sanford votes yes. Mr. Salmon?

Mr. SALMON. Aye.

Ms. BLOOMER. Mr. Salmon votes yes. Mr. Houghton?

Mr. HOUGHTON. Yes.

Ms. BLOOMER. Mr. Houghton votes yes. Mr. Hamilton?

Mr. HAMILTON. No.

Ms. BLOOMER. Mr. Hamilton votes no. Mr. Gejdenson?

Mr. GEJDENSON. No.

Ms. BLOOMER. Mr. Gejdenson votes no. Mr. Lantos?

[No response.]

Ms. BLOOMER. Mr. Torricelli?

Mr. TORRICELLI. Aye.

Ms. BLOOMER. Mr. Torricelli votes yes. Mr. Berman?

[No response.]

Ms. BLOOMER. Mr. Ackerman?

Mr. ACKERMAN. Aye.

Ms. BLOOMER. Mr. Ackerman votes yes. Mr. Johnston?

Mr. JOHNSTON. No.

Ms. BLOOMER. Mr. Johnston votes no. Mr. Engel?

Mr. ENGEL. Aye.

Ms. BLOOMER. Mr. Engel votes yes. Mr. Faleomavaega?

[No response.]

Ms. BLOOMER. Mr. Martinez?

Mr. MARTINEZ. No.

Ms. BLOOMER. Mr. Martinez votes no. Mr. Payne?

Mr. PAYNE. No.

Ms. BLOOMER. Mr. Payne votes no. Mr. Andrews?

Mr. ANDREWS. Yes.

Ms. BLOOMER. Mr. Andrews votes yes. Mr. Menendez?

Mr. MENENDEZ. Yes.

Ms. BLOOMER. Mr. Menendez votes yes. Mr. Brown?

Mr. BROWN. Yes.

Ms. BLOOMER. Ms. McKinney?

[No response.]

Ms. BLOOMER. Mr. Hastings?

Mr. HASTINGS. Yes.

Ms. BLOOMER. Mr. Hastings votes yes. Mr. Wynn?

Mr. WYNN. No.

Ms. BLOOMER. Mr. Wynn votes no. Mr. McNulty?

Mr. MCNULTY. Aye.

Ms. BLOOMER. Mr. McNulty votes yes. Mr. Moran?

Mr. MORAN. No.

Ms. BLOOMER. Mr. Moran votes no. Mr. Frazer?

Mr. FRAZER. No.

Ms. BLOOMER. Mr. Frazer votes no.

Mr. BURTON. The Clerk will call the absentees.

Ms. BLOOMER. Mr. Leach? Mr. Hyde?

Mr. HYDE. Aye.

Ms. BLOOMER. Mr. Hyde votes yes. Mr. Bereuter? Mr. Smith?

Mr. SMITH. Aye.

Ms. BLOOMER. Mr. Smith votes yes. Mr. Kim?

Mr. KIM. Yes.

Ms. BLOOMER. Mr. Kim votes yes. Mr. Lantos? Mr. Berman? Mr. Faleomavaega? Ms. McKinney?

Chairman GILMAN. The clerk will report the tally.

Ms. BLOOMER. On this vote there were 28 ayes and 9 noes.

Chairman GILMAN. On this vote, with the 28 ayes and 9 noes, the motion is agreed to. Without objection, the chief of staff is authorized to make technical, conforming, and grammatical changes in the bill just considered.

The chair gives members notice the committee intends to file its report within 3 days under the rules and that if members wish to file views, they should do so within the 3 days allotted. Without ob-

jection, motions to reconsider the actions of the committee at this meeting are considered to have been laid on the table.

The floor wants to thank all of the members for their cooperation on both sides of the aisle and to the staffs for their hard work. The committee stands adjourned, subject to the call of the chair.

[Whereupon, at 4:31 p.m., the committee adjourned subject to the call of the chair.]

APPENDIX

I

104TH CONGRESS
1ST SESSION

H. R. 927

To seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 1995

Mr. BURTON of Indiana (for himself, Mr. DIAZ-BALART, Ms. ROS-LEHTINEN, Mr. TORRICELLI, Mr. MENENDEZ, Mr. DELAY, Mr. BALLENGER, Mr. SOLOMON, Mr. GOSS, Mr. SMITH of New Jersey, Mr. KING, Mr. EWING, Mr. GALLEGLY, Mr. DEUTSCH, Mr. HANSEN, Mr. BARTON of Texas, Mr. ROHRBACHIER, Mr. FUNDERBURK, Mr. SAM JOHNSON of Texas, Mrs. VUCANOVICH, Mr. PETRI, Mrs. MEEK of Florida, and Mr. GILCHIREST) introduced the following bill; which was referred to the Committee on International Relations and, in addition, to the Committees on Ways and Means, the Judiciary, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Cuban Liberty and Democratic Solidarity (LIBERTAD)
 4 Act of 1995”.

5 (b) **TABLE OF CONTENTS.**—The table of contents of
 6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

**TITLE I—SEEKING SANCTIONS AGAINST THE CASTRO
GOVERNMENT**

- Sec. 101. Statement of policy.
- Sec. 102. Enforcement of the economic embargo of Cuba.
- Sec. 103. Prohibition against indirect financing of the Castro dictatorship.
- Sec. 104. United States opposition to Cuban membership in international financial institutions.
- Sec. 105. Assistance by the independent states of the former Soviet Union of the Government of Cuba.
- Sec. 106. Television broadcasting to Cuba.
- Sec. 107. Reports on assistance and commerce received by Cuba from other foreign countries.
- Sec. 108. Importation sanction against certain Cuban trading partners.

TITLE II—ASSISTANCE TO A FREE AND INDEPENDENT CUBA

- Sec. 201. Policy toward a transition government and a democratically elected government in Cuba.
- Sec. 202. Authorization of assistance for the Cuban people.
- Sec. 203. Coordination of assistance program; implementation and reports to Congress; reprogramming.
- Sec. 204. Authorization of appropriations.
- Sec. 205. Termination of the economic embargo of Cuba.
- Sec. 206. Requirements for a transition government.
- Sec. 207. Requirements for a democratically elected government.

**TITLE III—PROTECTION OF AMERICAN PROPERTY RIGHTS
ABROAD**

- Sec. 301. Exclusion from the United States of aliens who have confiscated property of United States nationals.
- Sec. 302. Liability for trafficking in property confiscated from United States nationals.
- Sec. 303. Claims to confiscated property.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

3 (1) The economy of Cuba has experienced a de-
4 cline of at least 60 percent in the last 5 years as a
5 result of—

6 (A) the end of its subsidization by the
7 former Soviet Union of between 5 billion and 6
8 billion dollars annually;

9 (B) 36 years of Communist tyranny and
10 economic mismanagement by the Castro govern-
11 ment;

12 (C) the extreme decline in trade between
13 Cuba and the countries of the former Soviet
14 bloc; and

15 (D) the policy of the Russian Government
16 and the countries of the former Soviet bloc to
17 conduct economic relations with Cuba on strict-
18 ly commercial terms.

19 (2) At the same time, the welfare and health of
20 the Cuban people have substantially deteriorated as
21 a result of this economic decline and the refusal of
22 the Castro regime to permit free and fair democratic
23 elections in Cuba.

24 (3) The Castro regime has made it abundantly
25 clear that it will not engage in any substantive polit-

1 ical reforms that would lead to democracy, a market
2 economy, or an economic recovery.

3 (4) The repression of the Cuban people, includ-
4 ing a ban on free and fair democratic elections, and
5 continuing violation of fundamental human rights
6 has isolated the Cuban regime as the only completely
7 nondemocratic government in the Western Hemi-
8 sphere.

9 (5) As long as free elections are not held in
10 Cuba, the economic condition of the country and the
11 welfare of the Cuban people will not improve in any
12 significant way.

13 (6) The totalitarian nature of the Castro regime
14 has deprived the Cuban people of any peaceful
15 means to improve their condition and has led thou-
16 sands of Cuban citizens to risk or lose their lives in
17 dangerous attempts to escape from Cuba to freedom.

18 (7) Radio Marti and Television Marti have both
19 been effective vehicles for providing the people of
20 Cuba with news and information and have helped to
21 bolster the morale of the people of Cuba living under
22 tyranny.

23 (8) The consistent policy of the United States
24 towards Cuba since the beginning of the Castro re-
25 gime, carried out by both Democratic and Repub-

1 lean administrations, has sought to keep faith with
2 the people of Cuba, and has been effective in sanc-
3 tioning the totalitarian Castro regime.

4 (9) The United States has shown a deep com-
5 mitment, and considers it a moral obligation, to pro-
6 mote and protect human rights and fundamental
7 freedoms as expressed in the Charter of the United
8 Nations and in the Universal Declaration of Human
9 Rights.

10 (10) The Congress has historically and consist-
11 ently manifested its solidarity and the solidarity of
12 the American people with the democratic aspirations
13 of the Cuban people.

14 (11) The Cuban Democracy Act of 1992 calls
15 upon the President to encourage the governments of
16 countries that conduct trade with Cuba to restrict
17 their trade and credit relations with Cuba in a man-
18 ner consistent with the purposes of that Act.

19 (12) The 1992 FREEDOM Support Act re-
20 quires that the President, in providing economic as-
21 sistance to Russia and the emerging Eurasian de-
22 mocracies, take into account the extent to which
23 they are acting to "terminate support for the com-
24 munist regime in Cuba, including removal of troops,

1 closing military facilities, and ceasing trade subsidies
2 and economic, nuclear, and other assistance”.

3 (13) The Government of Cuba engages in the
4 illegal international narcotics trade and harbors fu-
5 gitives from justice in the United States.

6 (14) The Castro government threatens inter-
7 national peace and security by engaging in acts of
8 armed subversion and terrorism such as the training
9 and supplying of groups dedicated to international
10 violence.

11 (15) The Castro government has utilized from
12 its inception and continues to utilize torture in var-
13 ious forms (including by psychiatry), as well as exe-
14 cution, exile, confiscation, political imprisonment,
15 and other forms of terror and repression, as means
16 of retaining power.

17 (16) Fidel Castro has defined democratic plu-
18 ralism as “pluralistic garbage” and continues to
19 make clear that he has no intention of tolerating the
20 democratization of Cuban society.

21 (17) The Castro government holds innocent Cu-
22 bans hostage in Cuba by no fault of the hostages
23 themselves solely because relatives have escaped the
24 country.

1 (18) Although a signatory state to the 1928
2 Inter-American Convention on Asylum and the
3 International Covenant on Civil and Political Rights
4 (which protects the right to leave one's own coun-
5 try), Cuba nevertheless surrounds embassies in its
6 capital by armed forces to thwart the right of its
7 citizens to seek asylum and systematically denies
8 that right to the Cuban people, punishing them by
9 imprisonment for seeking to leave the country and
10 killing them for attempting to do so (as dem-
11 onstrated in the case of the confirmed murder of
12 over 40 men, women, and children who were seeking
13 to leave Cuba on July 13, 1994).

14 (19) The Castro government continues to utilize
15 blackmail, such as the immigration crisis with which
16 it threatened the United States in the summer of
17 1994, and other unacceptable and illegal forms of
18 conduct to influence the actions of sovereign states
19 in the Western Hemisphere in violation of the Char-
20 ter of the Organization of American States and
21 other international agreements and international
22 law.

23 (20) The United Nations Commission on
24 Human Rights has repeatedly reported on the unac-
25 ceptable human rights situation in Cuba and has

1 taken the extraordinary step of appointing a Special
2 Rapporteur.

3 (21) The Government of Cuba has consistently
4 refused access to the Special Rapporteur and for-
5 mally expressed its decision not to “implement so
6 much as one comma” of the United Nations Reso-
7 lutions appointing the Rapporteur.

8 (22) The United Nations General Assembly
9 passed Resolution 1992/70 on December 4, 1992,
10 Resolution 1993/48/142 on December 20, 1993, and
11 Resolution 1994/49/544 on October 19, 1994, ref-
12 erencing the Special Rapporteur’s reports to the
13 United Nations and condemning “violations of
14 human rights and fundamental freedoms” in Cuba.

15 (23) Article 39 of Chapter VII of the United
16 Nations Charter provides that the United Nations
17 Security Council “shall determine the existence of
18 any threat to the peace, breach of the peace, or act
19 of aggression and shall make recommendations, or
20 decide what measures shall be taken . . . , to main-
21 tain or restore international peace and security.”

22 (24) The United Nations has determined that
23 massive and systematic violations of human rights
24 may constitute a “threat to peace” under Article 39
25 and has imposed sanctions due to such violations of

human rights in the cases of Rhodesia, South Africa, Iraq, and the former Yugoslavia.

(25) In the case of Haiti, a neighbor of Cuba not as close to the United States as Cuba, the United States led an effort to obtain and did obtain a United Nations Security Council embargo and blockade against that country due to the existence of a military dictatorship in power less than 3 years.

(26) United Nations Security Council Resolution 940 of July 31, 1994, subsequently authorized the use of "all necessary means" to restore the "democratically elected government of Haiti", and the democratically elected government of Haiti was restored to power on October 15, 1994.

(27) The Cuban people deserve to be assisted in a decisive manner to end the tyranny that has oppressed them for 36 years and the continued failure to do so constitutes ethically improper conduct by the international community.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To seek international sanctions against the Castro government in Cuba.

10

1 (2) To encourage the holding of free and fair,
2 democratic elections in Cuba, conducted under the
3 supervision of internationally recognized observers.

4 (3) To develop a plan for furnishing assistance
5 to a transition government and, subsequently, to a
6 democratically elected government when such gov-
7 ernments meet the eligibility requirements of this
8 Act.

9 (4) To protect property rights abroad of United
10 States nationals.

11 **SEC. 4. DEFINITIONS.**

12 As used in this Act, the following terms have the fol-
13 lowing meanings:

14 (1) APPROPRIATE CONGRESSIONAL COMMIT-
15 TEES.—The term “appropriate congressional com-
16 mittees” means the Committee on International Re-
17 lations and the Committee on Appropriations of the
18 House of Representatives and the Committee on
19 Foreign Relations and the Committee on Appropria-
20 tions of the Senate.

21 (2) CONFISCATED.—The term “confiscated” re-
22 fers to the nationalization, expropriation, or other
23 seizure of ownership or control of property by gov-
24 ernmental authority—

11

1 (A) without adequate and effective com-
2 pensation or otherwise in violation of the law of
3 the place where the property was situated when
4 the confiscation occurred; and

5 (B) without the claim to the property hav-
6 ing been settled pursuant to an international
7 claims settlement agreement.

8 (3) CUBAN GOVERNMENT.—The term “Cuban
9 government” includes the government of any politi-
10 cal subdivision, agency, or instrumentality of the
11 Government of Cuba.

12 (4) DEMOCRATICALLY ELECTED GOVERNMENT
13 IN CUBA.—The term “democratically elected govern-
14 ment in Cuba” means a government described in
15 section 207.

16 (5) ECONOMIC EMBARGO OF CUBA.—The term
17 “economic embargo of Cuba” refers to the economic
18 embargo imposed against Cuba pursuant to section
19 620(a) of the Foreign Assistance Act of 1961 (22
20 U.S.C. 2370(a)), section 5(b) of the Trading With
21 the Enemy Act (50 U.S.C. App. 5(b)), the Inter-
22 national Emergency Economic Powers Act, and the
23 Export Administration Act of 1979.

24 (6) PROPERTY.—The term “property” means—

1 (A) any property, right, or interest, includ-
2 ing any leasehold interest,

3 (B) debts owed by the Cuban government
4 or by any enterprise which has been confiscated
5 by the Cuban government; and

6 (C) debts which are a charge on property
7 confiscated by the Cuban government.

8 (7) TRAFFICS.—The term “traffics” means to
9 sell, transfer, distribute, dispense, or otherwise dis-
10 pose of property, or to purchase, receive, possess, ob-
11 tain control of, manage, or use property.

12 (8) TRANSITION GOVERNMENT IN CUBA.—The
13 term “transition government in Cuba” means a gov-
14 ernment described in section 206.

15 (9) UNITED STATES PERSON.—The term
16 “United States person” means (A) any United
17 States citizen, and (B) any corporation, trust, part-
18 nership, or other juridical entity 50 percent or more
19 beneficially owned by United States citizens.

20 **TITLE I—SEEKING SANCTIONS**
21 **AGAINST THE CASTRO GOV-**
22 **ERNMENT**

23 **SEC. 101. STATEMENT OF POLICY.**

24 It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek, within the Security Council, a mandatory international embargo against the totalitarian government of Cuba pursuant to chapter VII of the Charter of the United Nations, which is similar to measures taken by United States representatives with respect to Haiti; and

(3) any resumption or commencement of efforts by any state to make operational the nuclear facility at Cienfuegos, Cuba, will have a detrimental impact on United States assistance to and relations with such state.

SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) **POLICY.**—(1) The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992 that states the President should encourage foreign countries to restrict trade and credit relations with Cuba.

1 (2) The Congress further urges the President to take
2 immediate steps to apply the sanctions described in section
3 1704(b) of such Act against countries assisting Cuba.

4 (b) DIPLOMATIC EFFORTS.—The Secretary of State
5 shall ensure that United States diplomatic personnel
6 abroad understand and, in their contacts with foreign offi-
7 cials are—

8 (1) communicating the reasons for the United
9 States economic embargo of Cuba; and

10 (2) urging foreign governments to cooperate
11 more effectively with the embargo.

12 (c) EXISTING REGULATIONS.—The President should
13 instruct the Secretary of the Treasury and the Attorney
14 General to enforce fully the Cuban Assets Control Regula-
15 tions in part 515 of title 31, Code of Federal Regulations.

16 (d) VIOLATIONS OF RESTRICTIONS ON TRAVEL TO
17 CUBA.—The penalties provided for in section 16 of the
18 Trading with the Enemy Act (50 U.S.C. App. 16) shall
19 apply to all violations of the Cuban Assets Control Regula-
20 tions (part 515 of title 31, Code of Federal Regulations)
21 involving transactions incident to travel to and within
22 Cuba, notwithstanding section 16(b)(2) (the first place it
23 appears) and section 16(b)(3) and (4) of such Act.

1 **SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF**
2 **THE CASTRO DICTATORSHIP.**

3 (a) PROHIBITION.—Notwithstanding any other provi-
4 sion of law, no loan, credit, or other financing may be ex-
5 tended by a United States person or by a United States
6 agency to a foreign person that traffics in any property
7 confiscated by the Cuban government the claim to which
8 is owned by a United States person as of the date of enact-
9 ment of this Act.

10 (b) TERMINATION OF SANCTION.—The sanction of
11 subsection (a) shall cease to apply on the date of termi-
12 nation of the economic embargo of Cuba.

13 (c) PENALTIES.—Violations of subsection (a) shall be
14 punishable by the same penalties as are applicable to simi-
15 lar violations of the Cuban Assets Control Regulations in
16 part 515 of title 31, Code of Federal Regulations.

17 (d) DEFINITIONS.—As used in this section—

18 (1) the term “foreign person” means (A) an
19 alien, and (B) any corporation, trust, partnership, or
20 other juridical entity that is not 50 percent or more
21 beneficially owned by United States citizens; and

22 (2) the term “United States agency” has the
23 same meaning given to the term “agency” in section
24 551(1) of title 5, United States Code.

1 **SEC. 104. UNITED STATES OPPOSITION TO CUBAN MEMBER-**
2 **SHIP IN INTERNATIONAL FINANCIAL INSTI-**
3 **TUTIONS.**

4 (a) CONTINUED OPPOSITION TO CUBAN MEMBER-
5 SHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—(1)
6 Except as provided in paragraph (2), the Secretary of the
7 Treasury shall instruct the United States executive direc-
8 tor to each international financial institution to use the
9 voice and vote of the United States to oppose the admis-
10 sion of Cuba as a member of such institution until Cuba
11 holds free and fair, democratic elections, conducted under
12 the supervision of internationally recognized observers.

13 (2) During the period that a transition government
14 is in power in Cuba, the President shall take steps to sup-
15 port the processing of Cuba's application for membership
16 in any international financial institution subject to the
17 membership taking effect after a democratically elected
18 government is in power in Cuba.

19 (b) REDUCTION IN UNITED STATES PAYMENTS TO
20 INTERNATIONAL FINANCIAL INSTITUTIONS.—If any
21 international financial institution approves a loan or other
22 assistance to Cuba over the opposition of the United
23 States, then the Secretary of the Treasury shall withhold
24 from payment to such institution an amount equal to the
25 amount of the loan or other assistance to the Cuban gov-

1 ernment, with respect to each of the following types of
2 payment:

3 (1) The paid-in portion of the increase in cap-
4 ital stock of the institution.

5 (2) The callable portion of the increase in cap-
6 ital stock of the institution.

7 (c) DEFINITION.—For purposes of this section, the
8 term “international financial institution” means the Inter-
9 national Monetary Fund, the International Bank for Re-
10 construction and Development, the International Develop-
11 ment Association, the International Finance Corporation,
12 the Multilateral Investment Guaranty Agency, and the
13 Inter-American Development Bank.

14 **SEC. 105. ASSISTANCE BY THE INDEPENDENT STATES OF**
15 **THE FORMER SOVIET UNION OF THE GOV-**
16 **ERNMENT OF CUBA.**

17 (a) REPORTING REQUIREMENT.—Not later than 90
18 days after the date of enactment of this Act, the President
19 shall submit to the appropriate congressional committees
20 a report detailing progress towards the withdrawal of per-
21 sonnel of any independent state of the former Soviet
22 Union (within the meaning of section 3 of the FREEDOM
23 Support Act (22 U.S.C. 5801)), including advisers, techni-
24 cians, and military personnel, from the Cienfuegos nuclear
25 facility in Cuba.

1 (b) CRITERIA FOR ASSISTANCE.—Section
2 498A(a)(11) of the Foreign Assistance Act of 1961 (22
3 U.S.C. 2295a(a)(1)) is amended by striking “of military
4 facilities” and inserting “military and intelligence facili-
5 ties, including the military and intelligence facilities at
6 Lourdes and Cienfuegos,”.

7 (c) INELIGIBILITY FOR ASSISTANCE.—(1) Section
8 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

9 (A) by striking “or” at the end of paragraph
10 (4);

11 (B) by redesignating paragraph (5) as para-
12 graph (6); and

13 (C) by inserting after paragraph (4) the follow-
14 ing:

15 “(5) for the government of any independent
16 state effective 30 days after the President has deter-
17 mined and certified to the appropriate congressional
18 committees (and Congress has not enacted legisla-
19 tion disapproving the determination within the 30-
20 day period) that such government is providing as-
21 sistance for, or engaging in nonmarket based trade
22 (as defined in section 498B(k)(3)) with, the Govern-
23 ment of Cuba; or”.

1 (2) Subsection (k) of section 498B of that Act (22
2 U.S.C. 2295b(k)), is amended by adding at the end the
3 following:

4 “(3) NONMARKET BASED TRADE.—As used in
5 section 498A(b)(5), the term ‘nonmarket based
6 trade’ includes exports, imports, exchanges, or other
7 arrangements that are provided for goods and serv-
8 ices (including oil and other petroleum products) on
9 terms more favorable than those generally available
10 in applicable markets or for comparable commod-
11 ities, including—

12 “(A) exports to the Government of Cuba
13 on terms that involve a grant, concessional
14 price, guaranty, insurance, or subsidy;

15 “(B) imports from the Government of
16 Cuba at preferential tariff rates; and

17 “(C) exchange arrangements that include
18 advance delivery of commodities, arrangements
19 in which the Government of Cuba is not held
20 accountable for unfulfilled exchange contracts,
21 and arrangements under which Cuba does not
22 pay appropriate transportation, insurance, or fi-
23 nance costs.”.

24 (d) FACILITIES AT LOURDES, CUBA.—(1) The Con-
25 gress expresses its strong disapproval of the extension by

1 Russia of credits equivalent to approximately
2 \$200,000,000 in support of the intelligence facility at
3 Lourdes, Cuba, in November 1994.

4 (2) Section 498A of the Foreign Assistance Act of
5 1961 (22 U.S.C. 2295a) is amended by adding at the end
6 the following new subsection:

7 “(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF
8 MILITARY AND INTELLIGENCE FACILITIES IN CUBA.—(1)
9 Notwithstanding any other provision of law, the President
10 shall withhold from assistance allocated for an independ-
11 ent state of the former Soviet Union under this chapter
12 an amount equal to the sum of assistance and credits, if
13 any, provided by such state in support of military and in-
14 telligence facilities in Cuba, including the intelligence facil-
15 ity at Lourdes, Cuba.

16 “(2) Nothing in this subsection may be construed to
17 apply to—

18 “(A) assistance provided under the Soviet Nu-
19 clear Threat Reduction Act of 1991 (title II of Pub-
20 lic Law 102-228) or the Cooperative Threat Reduc-
21 tion Act of 1993 (title XII of Public Law 103-160);
22 or

23 “(B) assistance to meet urgent humanitarian
24 needs under section 498(1), including disaster as-

1 assistance described in subsection (c)(3) of this sec-
2 tion.”.

3 **SEC. 106. TELEVISION BROADCASTING TO CUBA.**

4 (a) CONVERSION TO UHF.—The Director of the
5 United States Information Agency shall implement a con-
6 version of television broadcasting to Cuba under the Tele-
7 vision Marti Service to ultra high frequency (UHF) broad-
8 casting.

9 (b) PERIODIC REPORTS.—Not later than 45 days
10 after the date of enactment of this Act, and every three
11 months thereafter until the conversion described in sub-
12 section (a) is fully implemented, the Director shall submit
13 a report to the appropriate congressional committees on
14 the progress made in carrying out subsection (a).

15 **SEC. 107. REPORTS ON ASSISTANCE AND COMMERCE RE-**
16 **CEIVED BY CUBA FROM OTHER FOREIGN**
17 **COUNTRIES.**

18 (a) REPORTS REQUIRED.—Not later than 90 days
19 after the date of enactment of this Act, and every year
20 thereafter, the President shall submit a report to the ap-
21 propriate congressional committees on assistance and
22 commerce received by Cuba from other foreign countries
23 during the preceding 12-month period.

1 (b) CONTENTS OF REPORTS.—Each report required
2 by subsection (a) shall, for the period covered by the re-
3 port, contain the following:

4 (1) A description of all bilateral assistance pro-
5 vided to Cuba by other foreign countries, including
6 humanitarian assistance.

7 (2) A description of Cuba's commerce with for-
8 eign countries, including an identification of Cuba's
9 trading partners and the extent of such trade.

10 (3) A description of the joint ventures com-
11 pleted, or under consideration, by foreign nationals
12 and business firms involving facilities in Cuba, in-
13 cluding an identification of the location of the facili-
14 ties involved and a description of the terms of agree-
15 ment of the joint ventures and the names of the par-
16 ties that are involved.

17 (4) A determination whether or not any of the
18 facilities described in paragraph (3) is the subject of
19 a claim against Cuba by a United States person.

20 (5) A determination of the amount of Cuban
21 debt owed to each foreign country, including the
22 amount of debt exchanged, forgiven, or reduced
23 under the terms of each investment or operation in
24 Cuba involving foreign nationals or businesses.

(6) A description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals or businesses do not enter the United States market, either directly or through third countries or parties.

SEC. 108. IMPORTATION SANCTION AGAINST CERTAIN CUBAN TRADING PARTNERS.

(a) SANCTION.—Notwithstanding any other provision of law, sugars, syrups, and molasses, that are the product of a country that the President determines has imported sugar, syrup, or molasses that is the product of Cuba, shall not be entered, or withdrawn from warehouse for consumption, into the customs territory of the United States, unless the condition set forth in subsection (b) is met.

(b) CONDITION FOR REMOVAL OF SANCTION.—The sanction set forth in subsection (a) shall cease to apply to a country if the country certifies to the President that the country will not import sugar, syrup, or molasses that is the product of Cuba until free and fair elections, conducted under the supervision of internationally recognized observers, are held in Cuba. Such certification shall cease to be effective if the President makes a subsequent deter-

1 mination under subsection (a) with respect to that coun-
2 try.

3 (c) REPORTS TO CONGRESS.—The President shall re-
4 port to the appropriate congressional committees all deter-
5 minations made under subsection (a) and all certifications
6 made under subsection (b).

7 (d) REALLOCATION OF SUGAR QUOTAS.—During any
8 period in which a sanction under subsection (a) is in effect
9 with respect to a country, the President may reallocate
10 to other countries the quota of sugars, syrups, and molas-
11 ses allocated to that country, before the prohibition went
12 into effect, under chapter 17 of the Harmonized Tariff
13 Schedule of the United States.

14 **TITLE II—ASSISTANCE TO A** 15 **FREE AND INDEPENDENT CUBA**

16 **SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT** 17 **AND A DEMOCRATICALLY ELECTED GOVERN-** 18 **MENT IN CUBA.**

19 The policy of the United States is as follows:

20 (1) To support the self-determination of the
21 Cuban people.

22 (2) To recognize that the self-determination of
23 the Cuban people is a sovereign and national right
24 of the citizens of Cuba which must be exercised free

1 of interference by the government of any other coun-
2 try.

3 (3) To encourage the Cuban people to empower
4 themselves with a government which reflects the self-
5 determination of the Cuban people.

6 (4) To recognize the potential for a difficult
7 transition from the current regime in Cuba that may
8 result from the initiatives taken by the Cuban people
9 for self-determination in response to the intran-
10 sigence of the Castro regime in not allowing any
11 substantive political or economic reforms, and to be
12 prepared to provide the Cuban people with humani-
13 tarian, developmental, and other economic assist-
14 ance.

15 (5) In solidarity with the Cuban people, to pro-
16 vide emergency relief assistance to a transition gov-
17 ernment in Cuba and long-term assistance to a
18 democratically elected government in Cuba that re-
19 sult from an expression of the self-determination of
20 the Cuban people.

21 (6) Through such assistance, to facilitate a
22 peaceful transition to representative democracy and
23 a market economy in Cuba and to consolidate de-
24 mocracy in Cuba.

1 (7) To deliver such assistance to the Cuban
2 people only through a transition government in
3 Cuba, through a democratically elected government
4 in Cuba, or through United States, international, or
5 indigenous nongovernmental organizations.

6 (8) To encourage other countries and multilat-
7 eral organizations to provide similar assistance, and
8 to work cooperatively with such countries and orga-
9 nizations to coordinate such assistance.

10 (9) To ensure that emergency relief is rapidly
11 implemented and distributed to the people of Cuba
12 upon the institution of a transition government in
13 Cuba.

14 (10) Not to provide favorable treatment or in-
15 fluence on behalf of any individual or entity in the
16 selection by the Cuban people of their future govern-
17 ment.

18 (11) To assist a transition government in Cuba
19 and a democratically elected government in Cuba to
20 prepare the Cuban military forces for an appropriate
21 role in a democracy.

22 (12) To be prepared to enter into negotiations
23 with a democratically elected government in Cuba ei-
24 ther to return the United States Naval Base at

1 Guantanamo to Cuba or to renegotiate the present
2 agreement under mutually agreeable terms.

3 (13) To consider the restoration of diplomatic
4 recognition and support the reintegration of the
5 Cuban government into Inter-American organiza-
6 tions when the President determines that there ex-
7 ists a democratically elected government in Cuba.

8 (14) To take steps to remove the economic em-
9 bargo of Cuba when the President determines that
10 there exists a democratically elected government in
11 Cuba.

12 (15) To assist a democratically elected govern-
13 ment in Cuba to strengthen and stabilize its national
14 currency.

15 (16) To pursue the extension of the North
16 American Free Trade Agreement to a free, demo-
17 cratic, and independent Cuba or to seek the creation
18 of an economic community with a free, democratic,
19 and independent Cuba.

20 **SEC. 202. AUTHORIZATION OF ASSISTANCE FOR THE**
21 **CUBAN PEOPLE.**

22 (a) AUTHORIZATION.—

23 (1) IN GENERAL.—The President shall develop
24 a plan for providing economic assistance to Cuba at
25 such time as the President determines that a transi-

1 tion government or a democratically elected govern-
2 ment (as determined under section 203(c)) is in
3 power in Cuba.

4 (2) EFFECT ON OTHER LAWS.—

5 (A) SUPERSEDING OTHER LAWS.—Subject
6 to subparagraph (B), assistance may be pro-
7 vided under this section notwithstanding any
8 other provision of law.

9 (B) DETERMINATION REQUIRED REGARD-
10 ING PROPERTY TAKEN FROM UNITED STATES
11 PERSONS.—Subparagraph (A) shall not apply
12 to section 620(a)(2) of the Foreign Assistance
13 Act of 1961 (22 U.S.C. 2370(a)(2)).

14 (b) PLAN FOR ASSISTANCE.—

15 (1) DEVELOPMENT OF PLAN.—The President
16 shall develop a plan for providing assistance under
17 this section—

18 (A) to a transition government in Cuba;
19 and

20 (B) to a democratically elected government
21 in Cuba.

22 (2) TYPES OF ASSISTANCE.—Assistance under
23 the plan developed under paragraph (1) shall include
24 the following:

1 (A) TRANSITION GOVERNMENT.—(i) Ex-
2 cept as provided in clause (ii), assistance under
3 the plan to a transition government in Cuba
4 shall be limited to—

5 (I) such food, medicine, medical sup-
6 plies and equipment, and assistance to
7 meet emergency energy needs, as is nec-
8 essary to meet the basic human needs of
9 the Cuban people; and

10 (II) assistance described in subpara-
11 graph (C).

12 (ii) Assistance under the plan to a transi-
13 tion government in Cuba may include assistance
14 for activities comparable to those set forth in
15 section 498 of the Foreign Assistance Act of
16 1961 (22 U.S.C. 2295) (other than paragraph
17 (9) of such section).

18 (B) DEMOCRATICALLY ELECTED GOVERN-
19 MENT.—Assistance under the plan to a demo-
20 cratically elected government in Cuba shall con-
21 sist of additional economic assistance, together
22 with assistance described in subparagraph (C).
23 Such economic assistance may include—

24 (i) assistance under chapter 1 of part
25 I (relating to development assistance), and

1 chapter 4 of part II (relating to the eco-
2 nomic support fund), of the Foreign As-
3 sistance Act of 1961;

4 (ii) assistance under the Agricultural
5 Trade Development and Assistance Act of
6 1954;

7 (iii) financing, guarantees, and other
8 forms of assistance provided by the Ex-
9 port-Import Bank of the United States;

10 (iv) financial support provided by the
11 Overseas Private Investment Corporation
12 for investment projects in Cuba;

13 (v) assistance provided by the Trade
14 and Development Agency;

15 (vi) Peace Corps programs;

16 (vii) relief of Cuba's external debt;

17 and

18 (viii) other appropriate assistance to
19 carry out the policy of section 201.

20 (C) MILITARY ADJUSTMENT ASSIST-
21 ANCE.—Assistance under the plan to a transi-
22 tion government in Cuba and to a democrat-
23 ically elected government in Cuba shall also in-
24 clude assistance in preparing the Cuban mili-

31

1 tary forces to adjust to an appropriate role in
2 a democracy.

3 (c) STRATEGY FOR DISTRIBUTION.—The plan devel-
4 oped under subsection (b) shall include a strategy for dis-
5 tributing assistance under the plan.

6 (d) DISTRIBUTION.—The plan developed under sub-
7 section (b) shall authorize assistance under the plan to
8 be provided through nongovernmental organizations and
9 private and voluntary organizations, whether within or
10 outside the United States, including humanitarian, edu-
11 cational, labor, and private sector organizations.

12 (e) INTERNATIONAL EFFORTS.—

13 (1) The President shall take the necessary
14 steps—

15 (A) to seek to obtain the agreement of
16 other countries and of international financial
17 institutions and multilateral organizations to
18 provide to a transition government in Cuba,
19 and to a democratically elected government in
20 Cuba, assistance comparable to that provided
21 by the United States under this Act; and

22 (B) to work with such countries, institu-
23 tions, and organizations to coordinate all such
24 assistance programs.

1 (2)(A) The President shall take the necessary
2 steps to encourage the Organization of American
3 States to create a special emergency fund for the ex-
4 plicit purpose of deploying human rights observers,
5 election support, and election observation in Cuba.

6 (B) The President should instruct the United
7 States Permanent Representative to the Organiza-
8 tion of American States to encourage other member
9 states of the Organization to join in calling for the
10 Cuban Government to allow the immediate deploy-
11 ment of independent human rights monitors of the
12 Organization throughout Cuba and on-site visits to
13 Cuba by the Inter-American Commission on Human
14 Rights.

15 (C) The President shall withhold from payment
16 to the Organization of American States not less than
17 \$5,000,000 of the arrearages of the United States to
18 the Organization of American States as of the date
19 of enactment of this Act until the Organization of
20 American States agrees to make available an equiva-
21 lent amount solely for the purposes of the special
22 fund.

23 (f) CARIBBEAN BASIN INITIATIVE.—The President
24 shall determine, as part of the assistance plan developed
25 under subsection (b), whether or not to designate Cuba

1 as a beneficiary country under section 212 of the Carib-
2 bean Basin Economic Recovery Act.

3 (2) Any designation of Cuba as a beneficiary country
4 under section 212 of such Act may only be made after
5 a democratically elected government is in power. Such des-
6 ignation may be made notwithstanding any other provision
7 of law.

8 (3) The table contained in section 212(b) of the Car-
9 ibbean Basin Economic Recovery Act (19 U.S.C. 2702(b))
10 is amended by inserting "Cuba" between "Costa Rica"
11 and "Dominica".

12 (g) TRADE AGREEMENTS.—The President, upon
13 transmittal to Congress of a determination under section
14 203(c)(3) that a democratically elected government in
15 Cuba is in power—

16 (1) shall take the necessary steps to enter into
17 a preliminary agreement with such government in
18 Cuba providing for extension of the North American
19 Free Trade Agreement to a free and independent
20 Cuba or to seek the creation of an economic commu-
21 nity with a free, democratic, and independent Cuba;
22 and

23 (2) is authorized to enter into negotiations with
24 a democratic government in Cuba to provide for the
25 extension of the North American Free Trade Agree-

1 ment (NAFTA) to Cuba or to seek the creation of
2 an economic community with a free, democratic, and
3 independent Cuba and to take such other steps as
4 will encourage renewed investment in Cuba.

5 (h) COMMUNICATION WITH THE CUBAN PEOPLE.—

6 The President shall take the necessary steps to commu-
7 nicate to the Cuban people the plan for assistance devel-
8 oped under this section.

9 (i) REPORT TO CONGRESS.—Not later than 180 days
10 after the date of the enactment of this Act, the President
11 shall transmit to the appropriate congressional committees
12 a report describing in detail the plan developed under this
13 section.

14 **SEC. 203. COORDINATION OF ASSISTANCE PROGRAM; IM-**
15 **PLEMENTATION AND REPORTS TO CON-**
16 **GRESS; REPROGRAMMING.**

17 (a) COORDINATING OFFICIAL.—The President shall
18 designate a coordinating official who shall be responsible
19 for—

20 (1) implementing the strategy for distributing
21 assistance under the plan developed under section
22 202(b);

23 (2) ensuring the speedy and efficient distribu-
24 tion of such assistance; and

(3) ensuring coordination among, and appropriate oversight by, the agencies of the United States that provide assistance under the plan, including resolving any disputes among such agencies.

(b) UNITED STATES-CUBA COUNCIL.—Upon making a determination under subsection (c)(3) that a democratically elected government is in power in Cuba, the President, after consultation with the coordinating official, shall designate a United States-Cuba council—

(1) to ensure coordination between the United States Government and the private sector in responding to change in Cuba, and in promoting market-based development in Cuba; and

(2) to establish periodic meetings between representatives of the United States and Cuban private sectors for the purpose of facilitating bilateral trade.

(c) IMPLEMENTATION OF PLAN; REPORTS TO CONGRESS.—

(1) IMPLEMENTATION WITH RESPECT TO TRANSITION GOVERNMENT.—Upon making a determination that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and shall, subject to the availability of appropriations, commence the delivery and distribution of assistance

1 to such transition government under the plan devel-
2 oped under section 202(b).

3 (2) REPORTS TO CONGRESS.—(A) The Presi-
4 dent shall transmit to the appropriate congressional
5 committees a report setting forth the strategy for
6 providing assistance described in section 202(b)(2)
7 (A) and (C) to the transition government in Cuba
8 under the plan of assistance developed under section
9 202(b), the types of such assistance, and the extent
10 to which such assistance has been distributed in ac-
11 cordance with the plan.

12 (B) The President shall transmit the report not
13 later than 90 days after making the determination
14 referred to in paragraph (1), except that the Presi-
15 dent shall transmit the report in preliminary form
16 not later than 15 days after making that determina-
17 tion.

18 (3) IMPLEMENTATION WITH RESPECT TO
19 DEMOCRATICALLY ELECTED GOVERNMENT.—The
20 President shall, upon determining that a democrat-
21 ically elected government in Cuba is in power, sub-
22 mit that determination to the appropriate congres-
23 sional committees and shall, subject to the availabil-
24 ity of appropriations, commence the delivery and dis-
25 tribution of assistance to such democratically elected

government under the plan developed under section 202(b).

(4) ANNUAL REPORTS TO CONGRESS.—Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report on the assistance provided under the plan developed under section 202(b), including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

(d) REPROGRAMMING.—Any changes in the assistance to be provided under the plan developed under section 202(b) may not be made unless the President notifies the appropriate congressional committees at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the President such sums as may be necessary to carry out this Act.

SEC. 205. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

Upon submitting a determination to the appropriate congressional committees under section 203(c)(3) that a

1 democratically elected government in Cuba is in power, the
2 President shall take steps to terminate the economic em-
3 bargo of Cuba.

4 **SEC. 206. REQUIREMENTS FOR A TRANSITION GOVERN-**
5 **MENT.**

6 For purposes of this Act, a transition government in
7 Cuba is a government in Cuba which—

8 (1) is demonstrably in transition from com-
9 munist totalitarian dictatorship to representative de-
10 mocracy;

11 (2) has legalized all political activity;

12 (3) has released all political prisoners and al-
13 lowed for investigations of Cuban prisons by appro-
14 priate international human rights organizations;

15 (4) makes public commitments to and is mak-
16 ing demonstrable progress in—

17 (A) establishing an independent judiciary;

18 (B) dissolving the present Department of
19 State Security in the Cuban Ministry of the In-
20 terior, including the Committees for the De-
21 fense of the Revolution and the Rapid Response
22 Brigades;

23 (C) respecting internationally recognized
24 human rights and basic freedoms as set forth in

1 the Universal Declaration of Human Rights, to
2 which Cuba is a signatory nation;

3 (D) effectively guaranteeing the rights of
4 free speech and freedom of the press;

5 (E) organizing free and fair elections for a
6 new government—

7 (i) to be held within 1 year after the
8 transition government assumes power;

9 (ii) with the participation of multiple
10 independent political parties that have full
11 access to the media on an equal basis, in-
12 cluding (in the case of radio, television, or
13 other telecommunications media) in terms
14 of allotments of time for such access and
15 the times of day such allotments are given;
16 and

17 (iii) to be conducted under the super-
18 vision of internationally recognized observ-
19 ers, such as the Organization of American
20 States, the United Nations, and other elec-
21 tions monitors;

22 (F) assuring the right to private property;

23 (G) taking appropriate steps to return to
24 United States citizens and entities property
25 taken by the Government of Cuba from such

1 citizens and entities on or after January 1,
2 1959, or to provide equitable compensation to
3 such citizens and entities for such property;

4 (H) granting permits to privately owned
5 telecommunications and media companies to op-
6 erate in Cuba; and

7 (I) allowing the establishment of an inde-
8 pendent labor movement and of independent so-
9 cial, economic, and political associations;

10 (5) does not include Fidel Castro or Raul Cas-
11 tro;

12 (6) has given adequate assurances that it will
13 allow the speedy and efficient distribution of assist-
14 ance to the Cuban people; and

15 (7) permits the deployment throughout Cuba of
16 independent and unfettered international human
17 rights monitors.

18 **SEC. 207. REQUIREMENTS FOR A DEMOCRATICALLY ELECT-**
19 **ED GOVERNMENT.**

20 For purposes of this Act, a democratically elected
21 government in Cuba, in addition to continuing to comply
22 with the requirements of section 206, is a government in
23 Cuba which—

(1) results from free and fair elections conducted under the supervision of internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) has made demonstrable progress in establishing an independent judiciary;

(5) is substantially moving toward a market-oriented economic system; and

(6) is committed to making constitutional changes that would ensure regular free and fair elections that meet the requirements of paragraph (2).

TITLE III—PROTECTION OF AMERICAN PROPERTY RIGHTS ABROAD

SEC. 301. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY OF UNITED STATES NATIONALS.

(a) ADDITIONAL GROUNDS FOR EXCLUSION.—Section 212(a)(9) of the Immigration and Nationality Act (8

1 U.S.C. 1182(a)) is amended by adding at the end the fol-
2 lowing:

3 “(D) ALIENS WHO HAVE CONFISCATED
4 AMERICAN PROPERTY ABROAD AND RELATED
5 PERSONS.—(i) Any alien who—

6 “(I) has confiscated, or has directed
7 or overseen the confiscation of, property
8 the claim to which is owned by a United
9 States person, or converts or has converted
10 for personal gain confiscated property, the
11 claim to which is owned by a United States
12 person;

13 “(II) traffics in confiscated property,
14 the claim to which is owned by a United
15 States person;

16 “(III) is a corporate officer, principal,
17 or shareholder of an entity which has been
18 involved in the confiscation, trafficking in,
19 or subsequent unauthorized use or benefit
20 from confiscated property, the claim to
21 which is owned by a United States person,
22 or

23 “(IV) is a spouse or child of a person
24 described in subelause (I),
25 is excludable.

1 “(ii) The validity of claims under this sub-
2 paragraph shall be established in accordance
3 with section 303 of the Cuban Liberty and
4 Democratic Solidarity (LIBERTAD) Act of
5 1995.

6 “(iii) For purposes of this subparagraph,
7 the terms ‘confiscated’, ‘traffics’, and ‘United
8 States person’ have the same meanings given to
9 such terms under section 4 of the Cuban Lib-
10 erty and Democratic Solidarity (LIBERTAD)
11 Act of 1995.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to individuals entering the Unit-
14 ed States on or after the date of enactment of this Act.

15 **SEC. 302. LIABILITY FOR TRAFFICKING IN PROPERTY CON-**
16 **FISCATED FROM UNITED STATES NATIONALS.**

17 (a) CIVIL REMEDY.—(1) Except as provided in para-
18 graphs (2) and (3), any person or government that traffics
19 in property confiscated by a foreign government shall be
20 liable to the United States person who owns the claim to
21 the confiscated property for money damages in an amount
22 which is the greater of—

23 (A) the amount certified by the Foreign Claims
24 Settlement Commission under title V of the Inter-

1 national Claims Settlement Act of 1949, plus inter-
2 est at the commercially recognized normal rate;

3 (B) the amount determined under section
4 303(a)(2); or

5 (C) the fair market value of that property, cal-
6 culated as being the then current value of the prop-
7 erty, or the value of the property when confiscated
8 plus interest at the commercially recognized normal
9 rate, whichever is greater.

10 (2) Except as provided in paragraph (3), any person
11 or government that traffics in confiscated property after
12 having received (A) notice of a claim to ownership of the
13 property by the United States person who owns the claim
14 to the confiscated property, and (B) a copy of this section,
15 shall be liable to such United States person for money
16 damages in an amount which is treble the amount speci-
17 fied in paragraph (1).

18 (3)(A) Actions may be brought under paragraph (1)
19 with respect to property confiscated before, on, or after
20 the date of enactment of this Act.

21 (B) In the case of property confiscated before the
22 date of enactment of this Act, no United States person
23 may bring an action under this section unless such person
24 acquired ownership of the claim to the confiscated prop-
25 erty before such date.

1 (C) In the case of property confiscated on or after
2 the date of enactment of this Act, in order to maintain
3 the action, the United States person who is the plaintiff
4 must demonstrate to the court that the plaintiff has taken
5 reasonable steps to exhaust any available local remedies.

6 (b) JURISDICTION.—Chapter 85 of title 28, United
7 States Code, is amended by inserting after section 1331
8 the following new section:

9 **“§ 1331a. Civil actions involving confiscated property**

10 “The district courts shall have exclusive jurisdiction,
11 without regard to the amount in controversy, of any action
12 brought under section 302 of the Cuban Liberty and
13 Democratic Solidarity (LIBERTAD) Act of 1995.”.

14 (c) WAIVER OF SOVEREIGN IMMUNITY.—Section
15 1605 of title 28, United States Code, is amended—

16 (1) by striking “or” at the end of paragraph
17 (5);

18 (2) by striking the period at the end of para-
19 graph (6) and inserting “; or”; and

20 (3) by adding at the end the following:

21 “(7) in which the action is brought with respect
22 to confiscated property under section 302 of the
23 Cuban Liberty and Democratic Solidarity
24 (LIBERTAD) Act of 1995.”.

1 **SEC. 303. CLAIMS TO CONFISCATED PROPERTY.**

2 (a) EVIDENCE OF OWNERSHIP.—For purposes of
3 this Act, conclusive evidence of ownership by the United
4 States person of a claim to confiscated property is estab-
5 lished—

6 (1) when the Foreign Claims Settlement Com-
7 mission certifies the claim under title V of the Inter-
8 national Claims Settlement Act of 1949, as amended
9 by subsection (b); or

10 (2) when the claim has been determined to be
11 valid by a court or administrative agency of the
12 country in which the property was confiscated.

13 (b) AMENDMENT OF THE INTERNATIONAL CLAIMS
14 SETTLEMENT ACT OF 1949.—Title V of the International
15 Claims Settlement Act of 1949 is amended by adding at
16 the end the following new section:

17 “ADDITIONAL CLAIMS

18 “SEC. 514. Notwithstanding any other provision of
19 this title, a United States national may bring a claim to
20 the Commission for determination and certification under
21 this title of the amount and validity of a claim resulting
22 from actions taken by the Government of Cuba described
23 in section 503(a), whether or not the United States na-
24 tional qualified as a United States national at the time
25 of the Cuban government action, except that, in the case
26 of property confiscated after the date of enactment of this

1 section, the claimant must be a United States national at
2 the time of the confiscation.”.

6/22/95

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 927
OFFERED BY MR. BURTON

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Cuban Liberty and Democratic Solidarity (LIBERTAD)
4 Act of 1995”.

5 (b) TABLE OF CONTENTS.—The table of contents of
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

TITLE I—SEEKING SANCTIONS AGAINST THE CASTRO
GOVERNMENT

- Sec. 101. Statement of policy.
- Sec. 102. Enforcement of the economic embargo of Cuba.
- Sec. 103. Prohibition against indirect financing of the Castro dictatorship.
- Sec. 104. United States opposition to Cuban membership in international financial institutions.
- Sec. 105. United States opposition to ending the suspension of the Government of Cuba from the Organization of American States.
- Sec. 106. Assistance by the Independent States of the former Soviet Union for the Cuban government.
- Sec. 107. Television broadcasting to Cuba.
- Sec. 108. Reports on assistance and commerce received by Cuba from other foreign countries.
- Sec. 109. Importation safeguard against certain Cuban products.
- Sec. 110. Authorization of support for democratic and human rights groups and international observers.

TITLE II—ASSISTANCE TO A FREE AND INDEPENDENT CUBA

- Sec. 201. Policy toward a transition government and a democratically elected government in Cuba.
- Sec. 202. Authorization of assistance for the Cuban people.
- Sec. 203. Coordination of assistance program: implementation and reports to Congress; reprogramming.
- Sec. 204. Authorization of appropriations.
- Sec. 205. Termination of the economic embargo of Cuba.
- Sec. 206. Requirements for a transition government.
- Sec. 207. Requirements for a democratically elected government.

TITLE III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS AGAINST CONFISCATORY TAKINGS BY THE CASTRO REGIME

- Sec. 301. Statement of policy.
- Sec. 302. Liability for trafficking in property confiscated from United States nationals.
- Sec. 303. Determination of claims to confiscated property.
- Sec. 304. Exclusivity of Foreign Claims Settlement Commission certification procedure.

TITLE IV—EXCLUSION OF CERTAIN ALIENS

- Sec. 401. Exclusion from the United States of aliens who have confiscated property of United States nationals or who traffic in such property.

1 SEC. 2. FINDINGS.

2 The Congress makes the following findings:

3 (1) The economy of Cuba has experienced a de-
4 cline of at least 60 percent in the last 5 years as a
5 result of—

6 (A) the end of its subsidization by the
7 former Soviet Union of between 5 billion and 6
8 billion dollars annually;

9 (B) 36 years of Communist tyranny and
10 economic mismanagement by the Castro govern-
11 ment;

12 (C) the extreme decline in trade between
13 Cuba and the countries of the former Soviet
14 bloc; and

1 (D) the stated policy of the Russian Gov-
2 ernment and the countries of the former Soviet
3 bloc to conduct economic relations with Cuba
4 on strictly commercial terms.

5 (2) At the same time, the welfare and health of
6 the Cuban people have substantially deteriorated as
7 a result of this economic decline and the refusal of
8 the Castro regime to permit free and fair democratic
9 elections in Cuba.

10 (3) The Castro regime has made it abundantly
11 clear that it will not engage in any substantive polit-
12 ical reforms that would lead to democracy, a market
13 economy, or an economic recovery.

14 (4) The repression of the Cuban people, includ-
15 ing a ban on free and fair democratic elections, and
16 continuing violation of fundamental human rights
17 have isolated the Cuban regime as the only com-
18 pletely nondemocratic government in the Western
19 Hemisphere.

20 (5) As long as free elections are not held in
21 Cuba, the economic condition of the country and the
22 welfare of the Cuban people will not improve in any
23 significant way.

24 (6) The totalitarian nature of the Castro regime
25 has deprived the Cuban people of any peaceful

1 means to improve their condition and has led thou-
2 sands of Cuban citizens to risk or lose their lives in
3 dangerous attempts to escape from Cuba to freedom.

4 (7) Radio Marti and Television Marti have both
5 been effective vehicles for providing the people of
6 Cuba with news and information and have helped to
7 bolster the morale of the people of Cuba living under
8 tyranny.

9 (8) The consistent policy of the United States
10 towards Cuba since the beginning of the Castro re-
11 gime, carried out by both Democratic and Repub-
12 lican administrations, has sought to keep faith with
13 the people of Cuba, and has been effective in sanc-
14 tioning the totalitarian Castro regime.

15 (9) The United States has shown a deep com-
16 mitment, and considers it a moral obligation, to pro-
17 mote and protect human rights and fundamental
18 freedoms as expressed in the Charter of the United
19 Nations and in the Universal Declaration of Human
20 Rights.

21 (10) The Congress has historically and consist-
22 ently manifested its solidarity and the solidarity of
23 the American people with the democratic aspirations
24 of the Cuban people.

1 (11) The Cuban Democracy Act of 1992 calls
2 upon the President to encourage the governments of
3 countries that conduct trade with Cuba to restrict
4 their trade and credit relations with Cuba in a man-
5 ner consistent with the purposes of that Act.

6 (12) The 1992 FREEDOM Support Act re-
7 quires that the President, in providing economic as-
8 sistance to Russia and the emerging Eurasian de-
9 mocracies, take into account the extent to which
10 they are acting to "terminate support for the com-
11 munist regime in Cuba, including removal of troops,
12 closing military facilities, and ceasing trade subsidies
13 and economic, nuclear, and other assistance".

14 (13) The Cuban government engages in the ille-
15 gal international narcotics trade and harbors fugi-
16 tives from justice in the United States.

17 (14) The Castro government threatens inter-
18 national peace and security by engaging in acts of
19 armed subversion and terrorism such as the training
20 and supplying of groups dedicated to international
21 violence.

22 (15) The Castro government has utilized from
23 its inception and continues to utilize torture in var-
24 ious forms (including by psychiatry), as well as exe-
25 cution, exile, confiscation, political imprisonment,

1 and other forms of terror and repression, as means
2 of retaining power.

3 (16) Fidel Castro has defined democratic plu-
4 ralism as "pluralistic garbage" and continues to
5 make clear that he has no intention of tolerating the
6 democratization of Cuban society.

7 (17) The Castro government holds innocent Cu-
8 bans hostage in Cuba by no fault of the hostages
9 themselves solely because relatives have escaped the
10 country.

11 (18) Although a signatory state to the 1928
12 Inter-American Convention on Asylum and the
13 International Covenant on Civil and Political Rights
14 (which protects the right to leave one's own coun-
15 try), Cuba nevertheless surrounds embassies in its
16 capital by armed forces to thwart the right of its
17 citizens to seek asylum and systematically denies
18 that right to the Cuban people, punishing them by
19 imprisonment for seeking to leave the country and
20 killing them for attempting to do so (as dem-
21 onstrated in the case of the confirmed murder of
22 over 40 men, women, and children who were seeking
23 to leave Cuba on July 13, 1994).

24 (19) The Castro government continues to utilize
25 blackmail, such as the immigration crisis with which

1 it threatened the United States in the summer of
2 1994, and other unacceptable and illegal forms of
3 conduct to influence the actions of sovereign states
4 in the Western Hemisphere in violation of the Char-
5 ter of the Organization of American States and
6 other international agreements and international
7 law.

8 (20) The United Nations Commission on
9 Human Rights has repeatedly reported on the unac-
10 ceptable human rights situation in Cuba and has
11 taken the extraordinary step of appointing a Special
12 Rapporteur.

13 (21) The Cuban government has consistently
14 refused access to the Special Rapporteur and for-
15 mally expressed its decision not to "implement so
16 much as one comma" of the United Nations Resolu-
17 tions appointing the Rapporteur.

18 (22) The United Nations General Assembly
19 passed Resolution 1992/70 on December 4, 1992,
20 Resolution 1993/48/142 on December 20, 1993, and
21 Resolution 1994/49/544 on October 19, 1994, ref-
22 erencing the Special Rapporteur's reports to the
23 United Nations and condemning "violations of
24 human rights and fundamental freedoms" in Cuba.

1 (23) Article 39 of Chapter VII of the United
2 Nations Charter provides that the United Nations
3 Security Council "shall determine the existence of
4 any threat to the peace, breach of the peace, or act
5 of aggression and shall make recommendations, or
6 decide what measures shall be taken . . . , to main-
7 tain or restore international peace and security."

8 (24) The United Nations has determined that
9 massive and systematic violations of human rights
10 may constitute a "threat to peace" under Article 39
11 and has imposed sanctions due to such violations of
12 human rights in the cases of Rhodesia, South Africa,
13 Iraq, and the former Yugoslavia.

14 (25) In the case of Haiti, a neighbor of Cuba
15 not as close to the United States as Cuba, the
16 United States led an effort to obtain and did obtain
17 a United Nations Security Council embargo and
18 blockade against that country due to the existence of
19 a military dictatorship in power less than 3 years.

20 (26) United Nations Security Council Resolu-
21 tion 940 of July 31, 1994, subsequently authorized
22 the use of "all necessary means" to restore the
23 "democratically elected government of Haiti", and
24 the democratically elected government of Haiti was
25 restored to power on October 15, 1994.

1 (27) The Cuban people deserve to be assisted in
2 a decisive manner to end the tyranny that has op-
3 pressed them for 36 years and the continued failure
4 to do so constitutes ethically improper conduct by
5 the international community.

6 (28) For the past 36 years, the Cuban Govern-
7 ment has posed and continues to pose a national se-
8 curity threat against the United States.

9 SEC. 3. PURPOSES.

10 The purposes of this Act are as follows:

11 (1) To assist the Cuban people in regaining
12 their freedom and prosperity, as well as in joining
13 the community of democracies that are flourishing in
14 the Western Hemisphere.

15 (2) To seek international sanctions against the
16 Castro government in Cuba.

17 (3) To encourage the holding of free and fair
18 democratic elections in Cuba, conducted under the
19 supervision of internationally recognized observers.

20 (4) To develop a plan for furnishing assistance
21 to a transition government and, subsequently, to a
22 democratically elected government when such gov-
23 ernments meet the eligibility requirements of this
24 Act.

1 (5) To protect property rights abroad of United
2 States nationals.

3 (6) To provide for the continued national secu-
4 rity of the United States in the face of continuing
5 threats from the Castro government of terrorism,
6 theft of property from United States nationals, and
7 domestic repression from which refugees flee to
8 United States shores.

9 **SEC. 4. DEFINITIONS.**

10 As used in this Act, the following terms have the fol-
11 lowing meanings:

12 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
13 **TEES.**—The term “appropriate congressional com-
14 mittees” means the Committee on International Re-
15 lations and the Committee on Appropriations of the
16 House of Representatives and the Committee on
17 Foreign Relations and the Committee on Appropria-
18 tions of the Senate.

19 (2) **COMMERCIAL ACTIVITY.**—The term “com-
20 mercial activity” has the meaning given that term in
21 section 1603(d) of title 28, United States Code.

22 (3) **CONFISCATED.**—As used in titles I and III,
23 the term “confiscated” refers to—

24 (A) the nationalization, expropriation, or
25 other seizure by the Cuban government of own-

1 ership or control of property, on or after Janu-
2 ary 1, 1959—

3 (i) without the property having been
4 returned or adequate and effective com-
5 pensation provided; or

6 (ii) without the claim to the property
7 having been settled pursuant to an inter-
8 national claims settlement agreement or
9 other mutually accepted settlement proce-
10 dure; and

11 (B) the repudiation by the Cuban govern-
12 ment of, the default by the Cuban government
13 on, or the failure by the Cuban government to
14 pay, on or after January 1, 1959—

15 (i) a debt of any enterprise which has
16 been nationalized, expropriated, or other-
17 wise taken by the Cuban government;

18 (ii) a debt which is a charge on prop-
19 erty nationalized, expropriated, or other-
20 wise taken by the Cuban government; or

21 (iii) a debt which was incurred by the
22 Cuban government in satisfaction or settle-
23 ment of a confiscated property claim.

24 (4) CUBAN GOVERNMENT.—(A) The term
25 “Cuban government” includes the government of

1 any political subdivision of Cuba, and any agency or
2 instrumentality of the Government of Cuba.

3 (B) For purposes of subparagraph (A), the
4 term "agency or instrumentality of the Government
5 of Cuba" means an agency or instrumentality of a
6 foreign state as defined in section 1603(b) of title
7 28, United States Code, with "Cuba" substituted for
8 "a foreign state" each place it appears in such sec-
9 tion.

10 (5) DEMOCRATICALLY ELECTED GOVERNMENT
11 IN CUBA.—The term "democratically elected govern-
12 ment in Cuba" means a government determined by
13 the President to have met the requirements of sec-
14 tion 207.

15 (6) ECONOMIC EMBARGO OF CUBA.—The term
16 "economic embargo of Cuba" refers to the economic
17 embargo imposed against Cuba pursuant to section
18 620(a) of the Foreign Assistance Act of 1961 (22
19 U.S.C. 2370(a)), section 5(b) of the Trading With
20 the Enemy Act (50 U.S.C. App. 5(b)), the Inter-
21 national Emergency Economic Powers Act (50
22 U.S.C. 1701 and following), and the Export Admin-
23 istration Act of 1979 (50 U.S.C. App. 2401 and fol-
24 lowing), as modified by the Cuban Democracy Act of
25 1992 (22 U.S.C. 6001 and following).

1 (7) FOREIGN NATIONAL.—The term “foreign
2 national” means—

3 (A) an alien; or

4 (B) any corporation, trust, partnership, or
5 other juridical entity not organized under the
6 laws of the United States, or of any State, the
7 District of Columbia, the Commonwealth of
8 Puerto Rico, or any other territory or posses-
9 sion of the United States.

10 (8) KNOWINGLY.—The term “knowingly”
11 means with knowledge or having reason to know.

12 (9) PROPERTY.—(A) The term “property”
13 means any property (including patents, copyrights,
14 trademarks, and any other form of intellectual prop-
15 erty), whether real, personal, or mixed, and any
16 present, future, or contingent right, security, or
17 other interest therein, including any leasehold inter-
18 est.

19 (B) For purposes of title III of this Act, the
20 term “property” shall not include real property used
21 for residential purposes unless, as of the date of the
22 enactment of this Act—

23 (i) the claim to the property is owned by
24 a United States national and the claim has

1 been certified under title V of the International
2 Claims Settlement Act of 1949; or

3 (ii) the property is occupied by a member
4 or official of the Cuban government or the rul-
5 ing political party in Cuba.

6 (10) TRAFFICS.—(A) As used in title III, a per-
7 son or entity “traffics” in property if that person or
8 entity knowingly and intentionally—

9 (i) sells, transfers, distributes, dispenses,
10 brokers, manages, or otherwise disposes of con-
11 fiscated property, or purchases, leases, receives,
12 possesses, obtains control of, manages, uses, or
13 otherwise acquires or holds an interest in con-
14 fiscated property,

15 (ii) engages in a commercial activity using
16 or otherwise benefiting from confiscated prop-
17 erty, or

18 (iii) causes, directs, participates in, or
19 profits from, trafficking (as described in clauses
20 (i) and (ii)) by another person, or otherwise en-
21 gages in trafficking (as described in clauses (i)
22 and (ii)) through another person,
23 without the authorization of the United States na-
24 tional who holds a claim to the property.

25 (B) The term “traffics” does not include—

1 (i) the delivery of international tele-
2 communication signals to Cuba that are author-
3 ized by section 1705(e) of the Cuban Democ-
4 racy Act of 1992 (22 U.S.C. 6004(e)); or

5 (ii) the trading or holding of securities
6 publicly traded or held, unless the trading is
7 with or by a person determined by the Sec-
8 retary of the Treasury to be a specially des-
9 ignated national.

10 (11) TRANSITION GOVERNMENT IN CUBA.—The
11 term “transition government in Cuba” means a gov-
12 ernment determined by the President to have met
13 the requirements of section 206.

14 (12) UNITED STATES NATIONAL.—The term
15 “United States national” means—

16 (A) any United States citizen; or

17 (B) any other legal entity which is orga-
18 nized under the laws of the United States, or
19 of any State, the District of Columbia, the
20 Commonwealth of Puerto Rico, or any other
21 territory or possession of the United States,
22 and which has its principal place of business in
23 the United States.

1 **TITLE I—SEEKING SANCTIONS**
2 **AGAINST THE CASTRO GOV-**
3 **ERNMENT**

4 **SEC. 101. STATEMENT OF POLICY.**

5 It is the sense of the Congress that—

6 (1) the acts of the Castro government, includ-
7 ing its massive, systematic, and extraordinary viola-
8 tions of human rights, are a threat to international
9 peace;

10 (2) the President should advocate, and should
11 instruct the United States Permanent Representa-
12 tive to the United Nations to propose and seek,
13 within the Security Council, a mandatory inter-
14 national embargo against the totalitarian Cuban
15 government pursuant to chapter VII of the Charter
16 of the United Nations, which is similar to measures
17 taken by United States representatives with respect
18 to Haiti; and

19 (3) any resumption or commencement of efforts
20 by any state to make operational the nuclear facility
21 at Cienfuegos, Cuba, will have a detrimental impact
22 on United States assistance to and relations with
23 that state.

1 SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF
2 CUBA.

3 (a) POLICY.—(1) The Congress hereby reaffirms sec-
4 tion 1704(a) of the Cuban Democracy Act of 1992 that
5 states the President should encourage foreign countries to
6 restrict trade and credit relations with Cuba.

7 (2) The Congress further urges the President to take
8 immediate steps to apply the sanctions described in section
9 1704(b) of that Act against countries assisting Cuba.

10 (b) DIPLOMATIC EFFORTS.—The Secretary of State
11 shall ensure that United States diplomatic personnel
12 abroad understand and, in their contacts with foreign offi-
13 cials, are communicating the reasons for the United States
14 economic embargo of Cuba, and are urging foreign govern-
15 ments to cooperate more effectively with the embargo.

16 (c) EXISTING REGULATIONS.—The President should
17 instruct the Secretary of the Treasury and the Attorney
18 General to enforce fully the Cuban Assets Control Regula-
19 tions in part 515 of title 31, Code of Federal Regulations.

20 (d) TRADING WITH THE ENEMY ACT.—

21 (1) CIVIL PENALTIES.—Subsection (b) of sec-
22 tion 16 of the Trading With the Enemy Act (50
23 U.S.C. App. 16(b)) is amended to read as follows:

24 “(b)(1) A civil penalty of not to exceed \$50,000 may
25 be imposed by the Secretary of the Treasury on any per-

1 son who violates any license, order, rule, or regulation is-
2 sued in compliance with the provisions of this Act.

3 “(2) Any property, funds, securities, papers, or other
4 articles or documents, or any vessel, together with its tack-
5 le, apparel, furniture, and equipment, that is the subject
6 of a violation under paragraph (1) shall, at the discretion
7 of the Secretary of the Treasury, be forfeited to the United
8 States Government.

9 “(3) Judicial review of any penalty imposed under
10 this subsection may be had to the extent provided in sec-
11 tion 702 of title 5, United States Code.”.

12 (2) FORFEITURE OF PROPERTY USED IN VIOLA-
13 TION.—Section 16 of the Trading With the Enemy
14 Act is further amended by striking subsection (c).

15 (e) COVERAGE OF DEBT-FOR-EQUITY SWAPS BY
16 ECONOMIC EMBARGO OF CUBA.—Section 1704(b)(2) of
17 the Cuban Democracy Act of 1992 (22 U.S.C. 6003(b)(2))
18 is amended—

19 (1) by striking “and” at the end of subpara-
20 graph (A);

21 (2) by redesignating subparagraph (B) as sub-
22 paragraph (C); and

23 (3) by inserting after subparagraph (A) the fol-
24 lowing new subparagraph:

1 “(B) includes an exchange, reduction, or
2 forgiveness of Cuban debt owed to a foreign
3 country in return for a grant of an equity inter-
4 est in a property, investment, or operation of
5 the Government of Cuba (including the govern-
6 ment of any political subdivision of Cuba, and
7 any agency or instrumentality of the Govern-
8 ment of Cuba) or of a Cuban national; and”;
9 and

10 (4) by adding at the end the following flush
11 sentence:

12 “‘As used in this paragraph, the term ‘agency or in-
13 strumentality of the Government of Cuba’ means an
14 agency or instrumentality of a foreign state as de-
15 fined in section 1603(b) of title 28, United States
16 Code, with ‘Cuba’ substituted for ‘a foreign state’
17 each place it appears in such section.”.

18 SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF
19 THE CASTRO DICTATORSHIP.

20 (a) PROHIBITION.—Notwithstanding any other provi-
21 sion of law, no loan, credit, or other financing may be ex-
22 tended knowingly by a United States national, permanent
23 resident alien, or United States agency, to a foreign per-
24 son, United States national, or permanent resident alien,
25 in order to finance transactions involving any confiscated

1 property the claim to which is owned by a United States
2 national as of the date of the enactment of this Act.

3 (b) **TERMINATION OF PROHIBITION.**—The prohibi-
4 tion of subsection (a) shall cease to apply on the date on
5 which the economic embargo of Cuba terminates under
6 section 205.

7 (c) **PENALTIES.**—Violations of subsection (a) shall be
8 punishable by the same penalties as are applicable to viola-
9 tions of the Cuban Assets Control Regulations set forth
10 in part 515 of title 31, Code of Federal Regulations.

11 (d) **DEFINITIONS.**—As used in this section—

12 (1) the term “permanent resident alien” means
13 an alien admitted for permanent residence into the
14 United States; and

15 (2) the term “United States agency” has the
16 meaning given the term “agency” in section 551(1)
17 of title 5, United States Code.

18 **SEC. 104. UNITED STATES OPPOSITION TO CUBAN MEMBER-**
19 **SHIP IN INTERNATIONAL FINANCIAL INSTI-**
20 **TUTIONS.**

21 (a) **CONTINUED OPPOSITION TO CUBAN MEMBER-**
22 **SHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.**—(1)
23 Except as provided in paragraph (2), the Secretary of the
24 Treasury shall instruct the United States executive direc-
25 tor to each international financial institution to use the

1 voice and vote of the United States to oppose the admis-
2 sion of Cuba as a member of that institution until the
3 President submits a determination under section
4 203(c)(3) that a democratically elected government in
5 Cuba is in power.

6 (2) Once the President submits a determination
7 under section 203(c)(1) that a transition government in
8 Cuba is in power, the President is encouraged to take
9 steps to support the processing of Cuba's application for
10 membership in any international financial institution, sub-
11 ject to the membership taking effect after a democratically
12 elected government in Cuba is in power.

13 (b) REDUCTION IN UNITED STATES PAYMENTS TO
14 INTERNATIONAL FINANCIAL INSTITUTIONS.—If any
15 international financial institution approves a loan or other
16 assistance to the Cuban government over the opposition
17 of the United States, then the Secretary of the Treasury
18 shall withhold from payment to that institution an amount
19 equal to the amount of the loan or other assistance to the
20 Cuban government, with respect to each of the following
21 types of payment:

22 (1) The paid-in portion of the increase in cap-
23 ital stock of the institution.

24 (2) The callable portion of the increase in cap-
25 ital stock of the institution.

22

1 (c) DEFINITION.—For purposes of this section, the
2 term “international financial institution” means the Inter-
3 national Monetary Fund, the International Bank for Re-
4 construction and Development, the International Develop-
5 ment Association, the International Finance Corporation,
6 the Multilateral Investment Guaranty Agency, and the
7 Inter-American Development Bank.

8 SEC. 105. UNITED STATES OPPOSITION TO ENDING THE
9 SUSPENSION OF THE GOVERNMENT OF CUBA
10 FROM THE ORGANIZATION OF AMERICAN
11 STATES.

12 The President should instruct the United States Per-
13 manent Representative to the Organization of American
14 States to use the voice and vote of the United States to
15 oppose ending the suspension of the Government of Cuba
16 from the Organization until the President determines
17 under section 203(c)(3) that a democratically elected gov-
18 ernment in Cuba is in power.

19 SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF
20 THE FORMER SOVIET UNION FOR THE CUBAN
21 GOVERNMENT.

22 (a) REPORTING REQUIREMENT.—Not later than 90
23 days after the date of the enactment of this Act, the Presi-
24 dent shall submit to the appropriate congressional com-
25 mittees a report detailing progress towards the withdrawal

23

1 of personnel of any independent state of the former Soviet
2 Union (within the meaning of section 3 of the FREEDOM
3 Support Act (22 U.S.C. 5801)), including advisers, techni-
4 cians, and military personnel, from the Cienfuegos nuclear
5 facility in Cuba.

6 (b) CRITERIA FOR ASSISTANCE.—Section
7 498A(a)(11) of the Foreign Assistance Act of 1961 (22
8 U.S.C. 2295a(a)(1)) is amended by striking “of military
9 facilities” and inserting “military and intelligence facili-
10 ties, including the military and intelligence facilities at
11 Lourdes and Cienfuegos,”.

12 (c) INELIGIBILITY FOR ASSISTANCE.—(1) Section
13 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

14 (A) by striking “or” at the end of paragraph
15 (4);

16 (B) by redesignating paragraph (5) as para-
17 graph (6); and

18 (C) by inserting after paragraph (4) the follow-
19 ing:

20 “(5) for the government of any independent
21 state effective 30 days after the President has deter-
22 mined and certified to the appropriate congressional
23 committees (and Congress has not enacted legisla-
24 tion disapproving the determination within that 30-
25 day period) that such government is providing as-

1 sistance for, or engaging in nonmarket based trade
2 (as defined in section 498B(k)(3)) with, the Cuban
3 government; or”.

4 (2) Subsection (k) of section 498B of that Act (22
5 U.S.C. 2295b(k)), is amended by adding at the end the
6 following:

7 “(3) NONMARKET BASED TRADE.—As used in
8 section 498A(b)(5), the term ‘nonmarket based
9 trade’ includes exports, imports, exchanges, or other
10 arrangements that are provided for goods and serv-
11 ices (including oil and other petroleum products) on
12 terms more favorable than those generally available
13 in applicable markets or for comparable commod-
14 ities, including—

15 “(A) exports to the Cuban government on
16 terms that involve a grant, concessional price,
17 guaranty, insurance, or subsidy;

18 “(B) imports from the Cuban government
19 at preferential tariff rates;

20 “(C) exchange arrangements that include
21 advance delivery of commodities, arrangements
22 in which the Cuban government is not held ac-
23 countable for unfulfilled exchange contracts,
24 and arrangements under which Cuba does not

1 pay appropriate transportation, insurance, or fi-
2 nance costs; and

3 "(D) the exchange, reduction, or forgive-
4 ness of Cuban debt in return for a grant by the
5 Cuban government of an equity interest in a
6 property, investment, or operation of the Cuban
7 government or of a Cuban national.

8 "(4) CUBAN GOVERNMENT.—(A) The term
9 'Cuban government' includes the government of any
10 political subdivision of Cuba, and any agency or in-
11 strumentality of the Government of Cuba.

12 "(B) For purposes of subparagraph (A), the
13 term 'agency or instrumentality of the Government
14 of Cuba' means an agency or instrumentality of a
15 foreign state as defined in section 1603(b) of title
16 28, United States Code, with 'Cuba' substituted for
17 'a foreign state' each place it appears in such sec-
18 tion."

19 (d) FACILITIES AT LOURDES, CUBA.—(1) The Con-
20 gress expresses its strong disapproval of the extension by
21 Russia of credits equivalent to approximately
22 \$200,000,000 in support of the intelligence facility at
23 Lourdes, Cuba, in November 1994.

26

1 (2) Section 498A of the Foreign Assistance Act of
2 1961 (22 U.S.C. 2295a) is amended by adding at the end
3 the following new subsection:

4 “(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF
5 INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstand-
6 ing any other provision of law, the President shall with-
7 hold from assistance provided, on or after the date of the
8 enactment of this subsection, for an independent state of
9 the former Soviet Union under this chapter an amount
10 equal to the sum of assistance and credits, if any, provided
11 on or after such date by such state in support of intel-
12 ligence facilities in Cuba, including the intelligence facility
13 at Lourdes, Cuba.

14 “(2) Nothing in this subsection may be construed to
15 apply to—

16 “(A) assistance provided under the Soviet Nu-
17 clear Threat Reduction Act of 1991 (title II of Pub-
18 lic Law 102-228) or the Cooperative Threat Reduc-
19 tion Act of 1993 (title XII of Public Law 103-160);
20 or

21 “(B) assistance to meet urgent humanitarian
22 needs under section 498(1), including disaster as-
23 sistance described in subsection (c)(3) of this sec-
24 tion.”.

1 SEC. 107. TELEVISION BROADCASTING TO CUBA.

2 (a) CONVERSION TO UHF.—The Director of the
3 United States Information Agency shall implement a con-
4 version of television broadcasting to Cuba under the Tele-
5 vision Marti Service to ultra high frequency (UHF) broad-
6 casting.

7 (b) PERIODIC REPORTS.—Not later than 45 days
8 after the date of the enactment of this Act, and every
9 three months thereafter until the conversion described in
10 subsection (a) is fully implemented, the Director shall sub-
11 mit a report to the appropriate congressional committees
12 on the progress made in carrying out subsection (a).

13 (c) TERMINATION OF BROADCASTING AUTHORI-
14 TIES.—Upon transmittal of a determination under section
15 203(c)(3), the Television Broadcasting to Cuba Act (22
16 U.S.C. 1465aa and following) and the Radio Broadcasting
17 to Cuba Act (22 U.S.C. 1465 and following) are repealed.

18 SEC. 108. REPORTS ON ASSISTANCE AND COMMERCE RE-
19 CEIVED BY CUBA FROM OTHER FOREIGN
20 COUNTRIES.

21 (a) REPORTS REQUIRED.—Not later than 90 days
22 after the date of the enactment of this Act, and every year
23 thereafter, the President shall submit a report to the ap-
24 propriate congressional committees on assistance and
25 commerce received by Cuba from other foreign countries
26 during the preceding 12-month period.

1 (b) CONTENTS OF REPORTS.—Each report required
2 by subsection (a) shall, for the period covered by the re-
3 port, contain the following, to the extent such information
4 is known:

5 (1) A description of all bilateral assistance pro-
6 vided to Cuba by other foreign countries, including
7 humanitarian assistance.

8 (2) A description of Cuba's commerce with for-
9 eign countries, including an identification of Cuba's
10 trading partners and the extent of such trade.

11 (3) A description of the joint ventures com-
12 pleted, or under consideration, by foreign nationals
13 involving facilities in Cuba, including an identifica-
14 tion of the location of the facilities involved and a
15 description of the terms of agreement of the joint
16 ventures and the names of the parties that are in-
17 volved.

18 (4) A determination whether or not any of the
19 facilities described in paragraph (3) is the subject of
20 a claim by a United States national.

21 (5) A determination of the amount of Cuban
22 debt owed to each foreign country, including—

23 (A) the amount of debt exchanged, for-
24 given, or reduced under the terms of each in-

1 vestment or operation in Cuba involving foreign
2 nationals: and

3 (B) the amount of debt owed to the foreign
4 country that has been exchanged, reduced, or
5 forgiven in return for a grant by the Cuban
6 government of an equity interest in a property,
7 investment, or operation of the Cuban govern-
8 ment or of a Cuban national.

9 (6) A description of the steps taken to ensure
10 that raw materials and semifinished or finished
11 goods produced by facilities in Cuba involving for-
12 eign nationals do not enter the United States mar-
13 ket, either directly or through third countries or par-
14 ties.

15 (7) An identification of countries that purchase,
16 or have purchased, arms or military supplies from
17 the Cuban government or that otherwise have en-
18 tered into agreements with the Cuban government
19 that have a military application, including—

20 (A) a description of the military supplies,
21 equipment, or other materiel sold, bartered, or
22 exchanged between the Cuban government and
23 such countries;

24 (B) a listing of the goods, services, credits,
25 or other consideration received by the Cuban

1 government in exchange for military supplies,
2 equipment, or materiel; and

3 (C) the terms or conditions of any such
4 agreement.

5 SEC. 109. IMPORTATION SAFEGUARD AGAINST CERTAIN
6 CUBAN PRODUCTS.

7 (a) STATEMENT OF POLICY.—

8 (1) The Congress reaffirms section 515.204 of
9 title 31, Code of Federal Regulations, that prohibits
10 the importation of and dealings in merchandise out-
11 side the United States that—

12 (A) is of Cuban origin,

13 (B) is or has been located in or trans-
14 ported from or through Cuba, or

15 (C) is made or derived in whole or in part
16 of any article which is the growth, produce, or
17 manufacture of Cuba.

18 (2) The Congress reaffirms that United States
19 accession to the North American Free Trade Agree-
20 ment does not modify or alter the United States
21 sanctions against Cuba, noting that the statement of
22 administrative action accompanying that trade
23 agreement specifically states the following:

24 (A) "The NAFTA rules of origin will not
25 in any way diminish the Cuban sanctions pro-

1 gram.... Nothing in the NAFTA would operate
2 to override this prohibition.”.

3 (B) “Article 309(3) [of the NAFTA] per-
4 mits the United States to ensure that Cuban
5 products or goods made from Cuban materials
6 are not imported into the United States from
7 Mexico or Canada and that United States prod-
8 ucts are not exported to Cuba through those
9 countries.”.

10 (3) The Congress notes that section 902(c) the
11 Food Security Act of 1985 (Public Law 99-198) re-
12 quired the President not to allocate any of the sugar
13 import quota to a country that is a net sugar im-
14 porter unless that country can verify to the Presi-
15 dent that any imports of sugar produced in Cuba
16 are not reexported to the United States.

17 (4) Protection of essential security interests of
18 the United States requires enhanced assurances that
19 sugar products imported into the United States are
20 not products of Cuba.

21 (b) IN GENERAL.—(1) Notwithstanding any other
22 provision of law, no sugar or sugar product shall enter
23 or be imported into the United States unless the exporter
24 of the sugar or sugar product to the United States has
25 certified, to the satisfaction of the Secretary of the Treas-

1 ury, that the sugar or sugar product is not a product of
2 Cuba.

3 (2) If the exporter described in paragraph (1) is not
4 the producer of the sugar or sugar product, the exporter
5 may certify the origin of the sugar or sugar product on
6 the basis of—

7 (A) its reasonable reliance on the producer's
8 written representations as to the origin of the sugar
9 or sugar product; or

10 (B) a certification of the origin of the sugar
11 product by its producer, that is voluntarily provided
12 to the exporter by the producer.

13 (c) CERTIFICATION.—The Secretary of the Treasury
14 shall prescribe the form, content, and manner of submis-
15 sion of the certification (including documentation) re-
16 quired in connection with the entry or importation into
17 the United States of sugar or sugar products, in order
18 to ensure the strict enforcement of this section. Such cer-
19 tification shall be in a form sufficient to satisfy the Sec-
20 retary that the exporter has taken steps to ensure that
21 it is not exporting to the United States sugar or sugar
22 products that are a product of Cuba.

23 (d) PENALTIES.—

24 (1) UNLAWFUL ACTS.—It is unlawful to—

1 (A) enter or import into the United States
2 any product or article if such importation is
3 prohibited under subsection (b), or

4 (B) make a false certification under sub-
5 section (c).

6 (2) FORFEITURE.—Any person or entity that
7 violates paragraph (1) shall forfeit to the United
8 States—

9 (A) in the case of a violation of paragraph
10 (1)(A), the goods imported or entered in viola-
11 tion of paragraph (1)(A), and

12 (B) in the case of a violation of paragraph
13 (1)(B), the goods imported or entered pursuant
14 to the false certification that is the subject of
15 the violation.

16 (3) ENFORCEMENT.—The Customs Service may
17 exercise the authorities it has under sections 581
18 through 641 of the Tariff Act of 1930 (19 U.S.C.
19 1581 through 1641) in order to carry out paragraph
20 (2).

21 (e) REPORTS TO CONGRESS.—The Secretary of the
22 Treasury shall report to the Congress on any unlawful acts
23 and penalties imposed under subsection (d).

24 (f) PUBLICATION OF LISTS OF VIOLATORS.—(1) The
25 Secretary of the Treasury shall publish in the Federal

1 Register, not later than March 31 and September 30 of
2 each year, a list containing the name of any person or
3 entity located outside the customs territory of the United
4 States whose acts result in a violation of paragraph (1)(A)
5 of subsection (d) or who violate paragraph (1)(B) of sub-
6 section (d).

7 (2) Any person or entity whose name has been in-
8 cluded in a list published under paragraph (1) may peti-
9 tion the Secretary to be removed from such list. If the
10 Secretary finds that such person or entity has not commit-
11 ted any violations described in subparagraph (A) for a pe-
12 riod of not less than 1 year after the date on which the
13 name of the person or entity was so published, the Sec-
14 retary shall remove such person from the list as of the
15 next publication of the list under subparagraph (A).

16 (g) DEFINITIONS.—For purposes of this section:

17 (1) ENTER, IMPORT, ETC.—The terms “entry”,
18 “enter or be imported”, “import”, and “importa-
19 tion” into the United States mean entered, or with-
20 drawn from warehouse for consumption, in the cus-
21 toms territory of the United States.

22 (2) PRODUCT OF CUBA.—The term “product of
23 Cuba” means a product that—

24 (A) is of Cuban origin,

1 (B) is or has been located in or trans-
2 ported from or through Cuba, or

3 (C) is made or derived in whole or in part
4 of any article which is the growth, produce, or
5 manufacture of Cuba.

6 (3) SUGAR, SUGAR PRODUCT.—The terms
7 “sugar” and “sugar product” mean sugars, syrups,
8 molasses, or products with sugar content in excess
9 of 35 percent.

10 SEC. 110. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC
11 AND HUMAN RIGHTS GROUPS AND INTER-
12 NATIONAL OBSERVERS.

13 (a) AUTHORIZATION.—Notwithstanding any other
14 provision of law, except for section 634A of the Foreign
15 Assistance Act of 1961 (22 U.S.C. 2394-1) and com-
16 parable notification requirements contained in any Act
17 making appropriations for foreign operations, export fi-
18 nancing, and related programs, the President is author-
19 ized to furnish assistance and provide other support for
20 individuals and independent nongovernmental organiza-
21 tions to support democracy-building efforts for Cuba, in-
22 cluding the following:

23 (1) Published and informational matter, such as
24 books, videos, and cassettes, on transitions to de-
25 mocracy, human rights, and market economies, to be

1 made available to independent democratic groups in
2 Cuba.

3 (2) Humanitarian assistance to victims of polit-
4 ical repression, and their families.

5 (3) Support for democratic and human rights
6 groups in Cuba.

7 (4) Support for visits and permanent deploy-
8 ment of independent international human rights
9 monitors in Cuba.

10 (b) OAS EMERGENCY FUND.—(1) The President
11 shall take the necessary steps to encourage the Organiza-
12 tion of American States to create a special emergency fund
13 for the explicit purpose of deploying human rights observ-
14 ers, election support, and election observation in Cuba.

15 (2) The President should instruct the United States
16 Permanent Representative to the Organization of Amer-
17 ican States to encourage other member states of the Orga-
18 nization to join in calling for the Cuban government to
19 allow the immediate deployment of independent human
20 rights monitors of the Organization throughout Cuba and
21 on-site visits to Cuba by the Inter-American Commission
22 on Human Rights.

23 (3) Notwithstanding section 307 of the Foreign As-
24 sistance Act of 1961 (22 U.S.C. 2227) or any other provi-
25 sion of law limiting the United States proportionate share

1 of assistance to Cuba by any international organization,
2 the President should provide not less than \$5,000,000 of
3 the voluntary contributions of the United States to the
4 Organization of American States as of the date of the en-
5 actment of this Act solely for the purposes of the special
6 fund referred to in paragraph (1).

7 **TITLE II—ASSISTANCE TO A**
8 **FREE AND INDEPENDENT CUBA**

9 **SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT**
10 **AND A DEMOCRATICALLY ELECTED GOVERN-**
11 **MENT IN CUBA.**

12 The policy of the United States is as follows:

13 (1) To support the self-determination of the
14 Cuban people.

15 (2) To recognize that the self-determination of
16 the Cuban people is a sovereign and national right
17 of the citizens of Cuba which must be exercised free
18 of interference by the government of any other coun-
19 try.

20 (3) To encourage the Cuban people to empower
21 themselves with a government which reflects the self-
22 determination of the Cuban people.

23 (4) To recognize the potential for a difficult
24 transition from the current regime in Cuba that may
25 result from the initiatives taken by the Cuban people

1 for self-determination in response to the intran-
2 sistence of the Castro regime in not allowing any
3 substantive political or economic reforms, and to be
4 prepared to provide the Cuban people with humani-
5 tarian, developmental, and other economic assist-
6 ance.

7 (5) In solidarity with the Cuban people, to pro-
8 vide appropriate forms of assistance—

9 (A) to a transition government in Cuba;

10 (B) to facilitate the rapid movement from
11 such a transition government to a democrat-
12 ically elected government in Cuba that results
13 from an expression of the self-determination of
14 the Cuban people; and

15 (C) to support such a democratically elect-
16 ed government.

17 (6) Through such assistance, to facilitate a
18 peaceful transition to representative democracy and
19 a market economy in Cuba and to consolidate de-
20 mocracy in Cuba.

21 (7) To deliver such assistance to the Cuban
22 people only through a transition government in
23 Cuba, through a democratically elected government
24 in Cuba, through United States Government organi-

1 zations, or through United States, international, or
2 indigenous nongovernmental organizations.

3 (8) To encourage other countries and multilat-
4 eral organizations to provide similar assistance, and
5 to work cooperatively with such countries and orga-
6 nizations to coordinate such assistance.

7 (9) To ensure that appropriate assistance is
8 rapidly provided and distributed to the people of
9 Cuba upon the institution of a transition govern-
10 ment in Cuba.

11 (10) Not to provide favorable treatment or in-
12 fluence on behalf of any individual or entity in the
13 selection by the Cuban people of their future govern-
14 ment.

15 (11) To assist a transition government in Cuba
16 and a democratically elected government in Cuba to
17 prepare the Cuban military forces for an appropriate
18 role in a democracy.

19 (12) To be prepared to enter into negotiations
20 with a democratically elected government in Cuba ei-
21 ther to return the United States Naval Base at
22 Guantanamo to Cuba or to renegotiate the present
23 agreement under mutually agreeable terms.

24 (13) To consider the restoration of diplomatic
25 recognition and support the reintegration of the

40

1 Cuban government into Inter-American organiza-
2 tions when the President determines that there ex-
3 ists a democratically elected government in Cuba.

4 (14) To take steps to remove the economic em-
5 bargo of Cuba when the President determines that
6 there exists a democratically elected government in
7 Cuba.

8 (15) To assist a democratically elected govern-
9 ment in Cuba to strengthen and stabilize its national
10 currency.

11 (16) To pursue the extension of free trade ar-
12 rangements to a free, democratic, and independent
13 Cuba or to seek the creation of an economic commu-
14 nity with a free, democratic, and independent Cuba.

15 SEC. 202. AUTHORIZATION OF ASSISTANCE FOR THE
16 CUBAN PEOPLE.

17 (a) AUTHORIZATION.—

18 (1) IN GENERAL.—The President shall develop
19 a plan for providing economic assistance to Cuba at
20 such time as the President determines that a transi-
21 tion government or a democratically elected govern-
22 ment in Cuba (as determined under section 203(c))
23 is in power.

1 (2) EFFECT ON OTHER LAWS.—Assistance may
2 be provided under this section notwithstanding any
3 other provision of law, except for—

4 (A) this Act;

5 (B) section 620(a)(2) of the Foreign As-
6 sistance Act of 1961 (22 U.S.C. 2370(a)(2));
7 and

8 (C) section 634A of the Foreign Assistance
9 Act of 1961 (22 U.S.C. 2394-1) and com-
10 parable notification requirements contained in
11 any Act making appropriations for foreign oper-
12 ations, export financing, and related programs.

13 (b) PLAN FOR ASSISTANCE.—

14 (1) DEVELOPMENT OF PLAN.—The President
15 shall develop a plan for providing assistance under
16 this section—

17 (A) to Cuba when a transition government
18 in Cuba is in power; and

19 (B) to Cuba when a democratically elected
20 government in Cuba is in power.

21 (2) TYPES OF ASSISTANCE.—Assistance under
22 the plan developed under paragraph (1) shall include
23 the following:

24 (A) TRANSITION GOVERNMENT.—(i) Ex-
25 cept as provided in clause (ii), assistance to

1 Cuba under a transition government shall be
2 limited to—

3 (I) such food, medicine, medical sup-
4 plies and equipment, and assistance to
5 meet emergency energy needs, as is nec-
6 essary to meet the basic human needs of
7 the Cuban people; and

8 (II) assistance described in subpara-
9 graph (C).

10 (ii) Assistance to a transition government
11 in Cuba may include assistance for activities
12 comparable to those set forth in section 498 of
13 the Foreign Assistance Act of 1961 (22 U.S.C.
14 2295) (other than paragraph (9) of such sec-
15 tion).

16 (iii) Only after a transition government in
17 Cuba is in power, remittances by individuals to
18 their relatives of cash or goods, as well as free-
19 dom to travel to visit them without any restric-
20 tions, shall be permitted.

21 (B) DEMOCRATICALLY ELECTED GOVERN-
22 MENT.—Assistance to a democratically elected
23 government in Cuba shall consist of additional
24 economic assistance, together with assistance

1 described in subparagraph (C). Such economic
2 assistance may include—

3 (i) assistance under chapter 1 of part
4 I (relating to development assistance), and
5 chapter 4 of part II (relating to the eco-
6 nomic support fund), of the Foreign As-
7 sistance Act of 1961;

8 (ii) assistance under the Agricultural
9 Trade Development and Assistance Act of
10 1954;

11 (iii) financing, guarantees, and other
12 forms of assistance provided by the Ex-
13 port-Import Bank of the United States;

14 (iv) financial support provided by the
15 Overseas Private Investment Corporation
16 for investment projects in Cuba;

17 (v) assistance provided by the Trade
18 and Development Agency;

19 (vi) Peace Corps programs;

20 (vii) relief of Cuba's external debt;

21 and

22 (viii) other appropriate assistance to
23 carry out the policy of section 201.

24 (C) MILITARY ADJUSTMENT ASSIST-
25 ANCE.—Assistance to a transition government

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1 in Cuba and to a democratically elected govern-
2 ment in Cuba shall also include assistance in
3 preparing the Cuban military forces to adjust to
4 an appropriate role in a democracy.

5 (c) STRATEGY FOR DISTRIBUTION.—The plan devel-
6 oped under subsection (b) shall include a strategy for dis-
7 tributing assistance under the plan.

8 (d) DISTRIBUTION.—Assistance under the plan devel-
9 oped under subsection (b) shall be provided through Unit-
10 ed States Government organizations and nongovernmental
11 organizations and private and voluntary organizations,
12 whether within or outside the United States, including hu-
13 manitarian, educational, labor, and private sector organi-
14 zations.

15 (e) INTERNATIONAL EFFORTS.—The President shall
16 take the necessary steps—

17 (1) to seek to obtain the agreement of other
18 countries and of international financial institutions
19 and multilateral organizations to provide to a transi-
20 tion government in Cuba, and to a democratically
21 elected government in Cuba, assistance comparable
22 to that provided by the United States under this
23 Act; and

1 (2) to work with such countries, institutions,
2 and organizations to coordinate all such assistance
3 programs.

4 (f) CARIBBEAN BASIN INITIATIVE.—(1) The Presi-
5 dent shall determine, as part of the assistance plan devel-
6 oped under subsection (b), whether or not to designate
7 Cuba as a beneficiary country under section 212 of the
8 Caribbean Basin Economic Recovery Act.

9 (2) Any designation of Cuba as a beneficiary country
10 under section 212 of such Act may only be made after
11 a democratically elected government in Cuba is in power.
12 Such designation may be made notwithstanding any other
13 provision of law.

14 (3) The table contained in section 212(b) of the Car-
15 ibbean Basin Economic Recovery Act (19 U.S.C. 2702(b))
16 is amended by inserting "Cuba" between "Costa Rica"
17 and "Dominica".

18 (g) TRADE AGREEMENTS AND INVESTMENT.—The
19 President, upon transmittal to Congress of a determina-
20 tion under section 203(c)(3) that a democratically elected
21 government in Cuba is in power—

22 (1) shall take the necessary steps to extend
23 nondiscriminatory trade treatment (most-favored-na-
24 tion treatment) to the products of Cuba;

1 (2) shall take the necessary steps to enter into
2 a preliminary agreement with such government in
3 Cuba providing for extension of the North American
4 Free Trade Agreement to a free and independent
5 Cuba or to seek the creation of an economic commu-
6 nity with a free, democratic, and independent Cuba;

7 (3) is authorized to enter into negotiations with
8 a democratic government in Cuba to provide for the
9 extension of the North American Free Trade Agree-
10 ment to Cuba or to seek the creation of an economic
11 community with a free, democratic, and independent
12 Cuba; and

13 (4) is authorized to take such other steps as
14 will encourage renewed investment in Cuba.

15 (h) **COMMUNICATION WITH THE CUBAN PEOPLE.**—
16 The President shall take the necessary steps to commu-
17 nicate to the Cuban people the plan for assistance devel-
18 oped under this section.

19 (i) **REPORT TO CONGRESS.**—Not later than 180 days
20 after the date of the enactment of this Act, the President
21 shall transmit to the appropriate congressional committees
22 a report describing in detail the plan developed under this
23 section.

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1 SEC. 203. COORDINATION OF ASSISTANCE PROGRAM; IM-
2 PLEMENTATION AND REPORTS TO CON-
3 GRESS; REPROGRAMMING.

4 (a) COORDINATING OFFICIAL.—The President shall
5 designate a coordinating official who shall be responsible
6 for—

7 (1) implementing the strategy for distributing
8 assistance described in section 202(b);

9 (2) ensuring the speedy and efficient distribu-
10 tion of such assistance; and

11 (3) ensuring coordination among, and appro-
12 priate oversight by, the agencies of the United
13 States that provide assistance described in section
14 202(b), including resolving any disputes among such
15 agencies.

16 (b) UNITED STATES-CUBA COUNCIL.—Upon making
17 a determination under subsection (c)(3) that a democrat-
18 ically elected government in Cuba is in power, the Presi-
19 dent, after consultation with the coordinating official, is
20 authorized to designate a United States-Cuba council—

21 (1) to ensure coordination between the United
22 States Government and the private sector in re-
23 sponding to change in Cuba, and in promoting mar-
24 ket-based development in Cuba; and

1 (2) to establish periodic meetings between rep-
2 representatives of the United States and Cuban private
3 sectors for the purpose of facilitating bilateral trade.

4 (c) IMPLEMENTATION OF PLAN; REPORTS TO CON-
5 GRESS.—

6 (1) IMPLEMENTATION WITH RESPECT TO TRAN-
7 SITION GOVERNMENT.—Upon making a determina-
8 tion that a transition government in Cuba is in
9 power, the President shall transmit that determina-
10 tion to the appropriate congressional committees and
11 shall, subject to the availability of appropriations,
12 commence the delivery and distribution of assistance
13 to such transition government under the plan devel-
14 oped under section 202(b).

15 (2) REPORTS TO CONGRESS.—(A) The Presi-
16 dent shall transmit to the appropriate congressional
17 committees a report setting forth the strategy for
18 providing assistance described in section 202(b)(2)
19 (A) and (C) to the transition government in Cuba
20 under the plan of assistance developed under section
21 202(b), the types of such assistance, and the extent
22 to which such assistance has been distributed in ac-
23 cordance with the plan.

24 (B) The President shall transmit the report not
25 later than 90 days after making the determination

1 referred to in paragraph (1), except that the Presi-
2 dent shall transmit the report in preliminary form
3 not later than 15 days after making that determina-
4 tion.

5 (3) IMPLEMENTATION WITH RESPECT TO
6 DEMOCRATICALLY ELECTED GOVERNMENT.—The
7 President shall, upon determining that a democrat-
8 ically elected government in Cuba is in power, sub-
9 mit that determination to the appropriate congres-
10 sional committees and shall, subject to the availabil-
11 ity of appropriations, commence the delivery and dis-
12 tribution of assistance to such democratically elected
13 government under the plan developed under section
14 202(b).

15 (4) ANNUAL REPORTS TO CONGRESS.—Not
16 later than 60 days after the end of each fiscal year,
17 the President shall transmit to the appropriate con-
18 gressional committees a report on the assistance
19 provided under the plan developed under section
20 202(b), including a description of each type of as-
21 sistance, the amounts expended for such assistance,
22 and a description of the assistance to be provided
23 under the plan in the current fiscal year.

24 (d) REPROGRAMMING.—Any changes in the assist-
25 ance to be provided under the plan developed under sec-

tion 202(b) may not be made unless the President notifies the appropriate congressional committees at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the President such sums as may be necessary to carry out this title.

SEC. 205. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c)(3) that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba.

(b) CONFORMING AMENDMENTS.—On the date on which the President submits a determination under section 203(c)(3)—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking "Republic of Cuba";

1 (3) sections 1704, 1705(d), and 1706 of the
2 Cuban Democracy Act of 1992 (22 U.S.C. 6003,
3 6004(d), and 6005) are repealed; and

4 (4) section 902(c) of the Food Security Act of
5 1985 is repealed.

6 **SEC. 208. REQUIREMENTS FOR A TRANSITION GOVERN-**
7 **MENT.**

8 For purposes of this Act, a transition government in
9 Cuba is a government in Cuba which—

10 (1) is demonstrably in transition from com-
11 munist totalitarian dictatorship to representative de-
12 mocracy;

13 (2) has recognized the right to independent po-
14 litical activity and association;

15 (3) has released all political prisoners and al-
16 lowed for investigations of Cuban prisons by appro-
17 priate international human rights organizations;

18 (4) has ceased any interference with Radio or
19 Television Marti broadcasts;

20 (5) makes public commitments to and is mak-
21 ing demonstrable progress in—

22 (A) establishing an independent judiciary;

23 (B) dissolving the present Department of
24 State Security in the Cuban Ministry of the In-
25 terior, including the Committees for the De-

1 fense of the Revolution and the Rapid Response
2 Brigades:

3 (C) respecting internationally recognized
4 human rights and basic freedoms as set forth in
5 the Universal Declaration of Human Rights, to
6 which Cuba is a signatory nation;

7 (D) effectively guaranteeing the rights of
8 free speech and freedom of the press;

9 (E) organizing free and fair elections for a
10 new government—

11 (i) to be held in a timely manner with-
12 in a period not to exceed 2 years after the
13 transition government assumes power;

14 (ii) with the participation of multiple
15 independent political parties that have full
16 access to the media on an equal basis, in-
17 cluding (in the case of radio, television, or
18 other telecommunications media) in terms
19 of allotments of time for such access and
20 the times of day such allotments are given;
21 and

22 (iii) to be conducted under the super-
23 vision of internationally recognized observ-
24 ers, such as the Organization of American

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1 States, the United Nations, and other elec-
2 tions monitors;

3 (F) assuring the right to private property;

4 (G) taking appropriate steps to return to
5 United States citizens (and entities which are
6 50 percent or more beneficially owned by Unit-
7 ed States citizens) property taken by the Cuban
8 government from such citizens and entities on
9 or after January 1, 1959, or to provide equi-
10 table compensation to such citizens and entities
11 for such property;

12 (H) granting permits to privately owned
13 telecommunications and media companies to op-
14 erate in Cuba; and

15 (I) allowing the establishment of independ-
16 ent trade unions as set forth in conventions 87
17 and 98 of the International Labor Organiza-
18 tion, and allowing the establishment of inde-
19 pendent social, economic, and political associa-
20 tions;

21 (6) does not include Fidel Castro or Raul Cas-
22 tro;

23 (7) has given adequate assurances that it will
24 allow the speedy and efficient distribution of assist-
25 ance to the Cuban people: and

1 (8) permits the deployment throughout Cuba of
2 independent and unfettered international human
3 rights monitors.

4 SEC. 207. REQUIREMENTS FOR A DEMOCRATICALLY ELECT-
5 ED GOVERNMENT.

6 For purposes of this Act, a democratically elected
7 government in Cuba, in addition to continuing to comply
8 with the requirements of section 206, is a government in
9 Cuba which—

10 (1) results from free and fair elections con-
11 ducted under the supervision of internationally rec-
12 ognized observers;

13 (2) has permitted opposition parties ample time
14 to organize and campaign for such elections, and has
15 permitted full access to the media to all candidates
16 in the elections;

17 (3) is showing respect for the basic civil lib-
18 erties and human rights of the citizens of Cuba;

19 (4) has made demonstrable progress in estab-
20 lishing an independent judiciary;

21 (5) is substantially moving toward a market-ori-
22 ented economic system;

23 (6) is committed to making constitutional
24 changes that would ensure regular free and fair elec-

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1 tions that meet the requirements of paragraph (2);
2 and

3 (7) has made demonstrable progress in return-
4 ing to United States citizens (and entities which are
5 50 percent or more beneficially owned by United
6 States citizens) property taken by the Cuban govern-
7 ment from such citizens and entities on or after
8 January 1, 1959, or providing full compensation for
9 such property in accordance with international law
10 standards and practice.

11 **TITLE III—PROTECTION OF**
12 **PROPERTY RIGHTS OF UNIT-**
13 **ED STATES NATIONALS**
14 **AGAINST CONFISCATORY**
15 **TAKINGS BY THE CASTRO RE-**
16 **GIME**

17 **SEC. 301. STATEMENT OF POLICY.**

18 The Congress makes the following findings:

19 (1) The right of individuals to hold and enjoy
20 property is a fundamental right recognized by the
21 United States Constitution and international human
22 rights law, including the Universal Declaration of
23 Human Rights.

24 (2) The illegal confiscation or taking of prop-
25 erty by governments, and the acquiescence of gov-

1 ernments in the confiscation of property by their
2 citizens, undermines the comity among nations, the
3 free flow of commerce, and economic development.

4 (3) It is in the interest of all nations to respect
5 equally the property rights of their citizens and na-
6 tionals of other countries.

7 (4) Nations that provide an effective mecha-
8 nism for prompt, adequate, and fair compensation
9 for the confiscation of private property will continue
10 to have the support of the United States.

11 (5) The United States Government has an obli-
12 gation to its citizens to provide protection against il-
13 legal confiscation by foreign nations and their citi-
14 zens, including the provision of private remedies.

15 (6) Nations that illegally confiscate private
16 property should not be immune to another nation's
17 laws whose purpose is to protect against the
18 confiscation of lawfully acquired property by its citi-
19 zens.

20 (7) Trafficking in illegally acquired property is
21 a crime under the laws of the United States and
22 other nations, yet this same activity is allowed under
23 international law.

24 (8) International law, by not providing effective
25 remedies, condones the illegal confiscation of prop-

1 erty and allows for the unjust enrichment from the
2 use of confiscated property by governments and pri-
3 vate entities at the expense of those who hold legal
4 claim to the property.

5 (9) The development of an international mecha-
6 nism sanctioning those governments and private en-
7 tities that confiscate and unjustly use private prop-
8 erty so confiscated should be a priority objective of
9 United States foreign policy.

10 **SEC. 302. LIABILITY FOR TRAFFICKING IN PROPERTY CON-**
11 **FISCATED FROM UNITED STATES NATIONALS.**

12 (a) **CIVIL REMEDY.—**

13 (1) **LIABILITY FOR TRAFFICKING.—**(A) Except
14 as provided in paragraphs (3) and (4), any person,
15 including any agency or instrumentality of a foreign
16 state in the conduct of a commercial activity, that,
17 after the end of the 6-month period beginning on the
18 date of the enactment of this Act, traffics in con-
19 fiscated property shall be liable to any United States
20 national who owns the claim to such property for
21 money damages in an amount equal to the sum of—

22 (i) the amount which is the greater of—

23 (I) the amount, if any, certified to the
24 claimant by the Foreign Claims Settlement
25 Commission under the International

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1 Claims Settlement Act of 1949, plus inter-
2 est:

3 (II) the amount determined under sec-
4 tion 303(a)(2), plus interest; or

5 (III) the fair market value of that
6 property, calculated as being the then cur-
7 rent value of the property, or the value of
8 the property when confiscated plus inter-
9 est, whichever is greater; and

10 (ii) reasonable costs and attorneys' fees.

11 (B) Interest under subparagraph (A)(i) shall be
12 at the rate set forth in section 1961 of title 28,
13 United States Code, computed by the court from the
14 date of the confiscation of the property involved to
15 the date on which the action is brought under this
16 subsection.

17 (2) PRESUMPTION IN FAVOR OF CERTIFIED
18 CLAIMS.—There shall be a presumption that the
19 amount for which a person, including any agency or
20 instrumentality of a foreign state in the conduct of
21 a commercial activity, is liable under clause (i) of
22 paragraph (1)(A) is the amount that is certified
23 under subclause (I) of that clause. The presumption
24 shall be rebuttable by clear and convincing evidence
25 that the amount described in subclause (II) or (III)

1 of that clause is the appropriate amount of liability
2 under that clause.

3 (3) INCREASED LIABILITY FOR PRIOR NO-
4 TICE.—Except as provided in paragraph (4), any
5 person, including any agency or instrumentality of a
6 foreign state in the conduct of a commercial activity,
7 that traffics in confiscated property after having re-
8 ceived—

9 (A) notice of a claim to ownership of the
10 property by a United States national who owns
11 a claim to the confiscated property, and

12 (B) notice of the provisions of this section,
13 shall be liable to that United States national for
14 money damages in an amount which is the sum of
15 the amount equal to the amount determined under
16 paragraph (1)(A)(ii) plus triple the amount deter-
17 mined applicable under subclause (I), (II), or (III)
18 of paragraph (1)(A)(i).

19 (4) APPLICABILITY.—(A) Except as otherwise
20 provided in this paragraph, actions may be brought
21 under paragraph (1) with respect to property con-
22 fiscated before, on, or after the date of the enact-
23 ment of this Act.

24 (B) In the case of property confiscated before
25 the date of the enactment of this Act, no United

1 States national may bring an action under this sec-
2 tion unless such national acquired ownership of the
3 claim to the confiscated property before such date.

4 (C) In the case of property confiscated on or
5 the date of the enactment of this Act, no United
6 States national who acquired ownership of a claim to
7 confiscated property by assignment for value after
8 such date of enactment may bring an action on the
9 claim under this section.

10 (6) TREATMENT OF CERTAIN ACTIONS.—(A) In
11 the case of any action brought under this section by
12 a United States national who was eligible to file the
13 underlying claim in the action with the Foreign
14 Claims Settlement Commission under title V of the
15 International Claims Settlement Act of 1949 but did
16 not so file the claim, the court may hear the case
17 only if the court determines that the United States
18 national had good cause for not filing the claim.

19 (B) In the case of any action brought under
20 this section by a United States national whose claim
21 in the action was timely filed with the Foreign
22 Claims Settlement Commission under title V of the
23 International Claims Settlement Act of 1949 but
24 was denied by the Commission, the court may assess
25 the basis for the denial and may accept the findings

1 of the Commission on the claim as conclusive in the
2 action under this section unless good cause justifies
3 another result.

4 (7) INAPPLICABILITY OF ACT OF STATE DOC-
5 TRINE.—No court of the United States shall decline,
6 based upon the act of state doctrine, to make a de-
7 termination on the merits in an action brought
8 under paragraph (1).

9 (b) DEFINITION.—As used in this subsection, the
10 term “agency or instrumentality of a foreign state” has
11 the meaning given that term in section 1603(b) of title
12 28, United States Code.

13 (c) JURISDICTION.—

14 (1) IN GENERAL.—Chapter 85 of title 28, Unit-
15 ed States Code, is amended by inserting after sec-
16 tion 1331 the following new section:

17 “§ 1331a. Civil actions involving confiscated property
18 “The district courts shall have exclusive jurisdiction
19 of any action brought under section 302 of the Cuban Lib-
20 erty and Democratic Solidarity (LIBERTAD) Act of
21 1995, regardless of the amount in controversy.”.

22 (2) CONFORMING AMENDMENT.—The table of
23 sections for chapter 85 of title 28, United States
24 Code, is amended by inserting after the item relating
25 to section 1331 the following:

“1331a. Civil actions involving confiscated property.”.

1 (d) CERTAIN PROPERTY IMMUNE FROM EXECU-
2 TION.—Section 1611 of title 28, United States Code, is
3 amended by adding at the end the following:

4 “(c) Notwithstanding the provisions of section 1610
5 of this chapter, the property of a foreign state shall be
6 immune from attachment and from execution in an action
7 brought under section 1605(7) to the extent the property
8 is a facility or installation used by an accredited diplo-
9 matic mission for official purposes.”.

10 (e) ELECTION OF REMEDIES.—

11 (1) ELECTION.—Subject to paragraph (2)—

12 (A) any United States national that brings
13 an action under this section may not bring any
14 other civil action or proceeding under the com-
15 mon law, Federal law, or the law of any of the
16 several States, the District of Columbia, or any
17 territory or possession of the United States,
18 that seeks monetary or nonmonetary compensa-
19 tion by reason of the same subject matter; and

20 (B) any person who brings, under the com-
21 mon law or any provision of law other than this
22 section, a civil action or proceeding for mone-
23 tary or nonmonetary compensation arising out
24 of a claim for which an action would otherwise

1 be cognizable under this section may not bring
2 an action under this section on that claim.

3 (2) TREATMENT OF CERTIFIED CLAIMANTS.—

4 In the case of any United States national that
5 brings an action under this section based on a claim
6 certified under title V of the International Claims
7 Settlement Act of 1949—

8 (A) if the recovery in the action is equal to
9 or greater than the amount of the certified
10 claim, the United States national may not re-
11 ceive payment on the claim under any agree-
12 ment entered into between the United States
13 and Cuba settling claims covered by such title,
14 and such national shall be deemed to have dis-
15 charged the United States from any further re-
16 sponsibility to represent the United States na-
17 tional with respect to that claim;

18 (B) if the recovery in the action is less
19 than the amount of the certified claim, the
20 United States national may receive payment
21 under a claims agreement described in subpara-
22 graph (A) but only to the extent of the dif-
23 ference between the amount of the recovery and
24 the amount of the certified claim; and

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1 (C) if there is no recovery in the action,
2 the United States national may receive payment
3 on the certified claim under a claims agreement
4 described in subparagraph (A) to the same ex-
5 tent as any certified claimant who does not
6 bring an action under this section.

7 (f) DEPOSIT OF EXCESS PAYMENTS BY CUBA UNDER
8 CLAIMS AGREEMENT.—Any amounts paid by Cuba under
9 any agreement entered into between the United States and
10 Cuba settling certified claims under title V of the Inter-
11 national Claims Settlement Act of 1949 that are in excess
12 of the payments made on such certified claims after the
13 application of subsection (e) shall be deposited into the
14 United States Treasury.

15 (g) TERMINATION OF RIGHTS.—(1) All rights cre-
16 ated under this section to bring an action for money dam-
17 ages with respect to property confiscated before the date
18 of the enactment of this Act shall cease upon the transmit-
19 tal to the Congress of a determination of the President
20 under section 203(c)(3).

21 (2) The termination of rights under paragraph (1)
22 shall not affect suits commenced before the date of such
23 termination, and in all such suits, proceedings shall be
24 had, appeals taken, and judgments rendered in the same

1 manner and with the same effect as if this subsection had
2 not been enacted.

3 SEC. 303. DETERMINATION OF CLAIMS TO CONFISCATED
4 PROPERTY.

5 (a) EVIDENCE OF OWNERSHIP.—

6 (1) In any action brought under this title, the
7 courts shall accept as conclusive proof of ownership
8 a certification of a claim to ownership that has been
9 made by the Foreign Claims Settlement Commission
10 pursuant to title V of the International Claims Set-
11 tlement Act of 1949 (22 U.S.C. 1643 and following).

12 (2) In the case of a claim that has not been cer-
13 tified by the Foreign Claims Settlement Commission
14 before the enactment of this Act, a court may ap-
15 point a Special Master, including the Foreign Claims
16 Settlement Commission, to make determinations re-
17 garding the amount and validity of claims to owner-
18 ship of confiscated property. Such determinations
19 are only for evidentiary purposes in civil actions
20 brought under this title and do not constitute certifi-
21 cations pursuant to title V of the International
22 Claims Settlement Act of 1949.

23 (3) In determining ownership, courts shall not
24 accept as conclusive evidence of ownership any find-
25 ings, orders, judgments, or decrees from administra-

1 tive agencies or courts of foreign countries or inter-
2 national organizations that invalidate the claim held
3 by a United States national, unless the invalidation
4 was found pursuant to binding international arbitra-
5 tion to which United States national submitted the
6 claim.

7 (b) AMENDMENT OF THE INTERNATIONAL CLAIMS
8 SETTLEMENT ACT OF 1949.—Title V of the International
9 Claims Settlement Act of 1949 (22 U.S.C. 1643 and fol-
10 lowing) is amended by adding at the end the following new
11 section:

12 “EVALUATION OF OWNERSHIP CLAIMS REFERRED BY
13 DISTRICT COURTS OF THE UNITED STATES

14 “SEC. 514. Notwithstanding any other provision of
15 this title and only for purposes of section 302 of the
16 Cuban Liberty and Solidarity (LIBERTAD) Act, a United
17 States district court, for fact-finding purposes, may refer
18 to the Commission, and the Commission may determine,
19 questions of the amount and ownership of a claim by a
20 United States national (as defined in section 4 of the
21 Cuban Liberty and Solidarity (LIBERTAD) Act) result-
22 ing from the confiscation of property by the Government
23 of Cuba described in section 503(a), whether or not the
24 United States national qualified as a national of the Unit-
25 ed States (as defined in section 502(1)) at the time of
26 the action by the Government of Cuba.”.

1 (c) RULE OF CONSTRUCTION.—Nothing in this Act
2 or section 514 of the International Claims Settlement Act
3 of 1949, as added by subsection (b), shall be construed—

4 (1) to require or otherwise authorize the claims
5 of Cuban nationals who became United States citi-
6 zens after their property was confiscated to be in-
7 cluded in the claims certified to the Secretary of
8 State by the Foreign Claims Settlement Commission
9 for purposes of future negotiation and espousal of
10 claims with a friendly government in Cuba when dip-
11 lomatic relations are restored; or

12 (2) as superseding, amending, or otherwise al-
13 tering certifications that have been made pursuant
14 to title V of the International Claims Settlement Act
15 of 1949 before the enactment of this Act.

16 SEC. 304. EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT
17 COMMISSION CERTIFICATION PROCEDURE.

18 Title V of the International Claims Settlement Act
19 of 1949 (22 U.S.C. 1643 and following), as amended by
20 section 303, is further amended by adding at the end the
21 following new section:

22 "EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT
23 COMMISSION CERTIFICATION PROCEDURE

24 "SEC. 515. (a) Subject to subsection (b), neither any
25 national of the United States who was eligible to file a
26 claim under section 503 but did not timely file such claim

1 under that section, nor any national of the United States
2 (on the date of the enactment of this section) who was
3 not eligible to file a claim under that section, nor any na-
4 tional of Cuba, including any agency, instrumentality, sub-
5 division, or enterprise of the Government of Cuba or any
6 local government of Cuba in place on the date of the enact-
7 ment of this section, nor any successor thereto, whether
8 or not recognized by the United States, shall have a claim
9 to, participate in, or otherwise have an interest in, the
10 compensation proceeds or other nonmonetary compensa-
11 tion paid or allocated to a national of the United States
12 by virtue of a claim certified by the Commission under
13 section 507, nor shall any court of the United States or
14 any State court have jurisdiction to adjudicate any such
15 claim.

16 “(b) Nothing in subsection (a) shall be construed to
17 detract from or otherwise affect any rights in the shares
18 of the capital stock of nationals of the United States own-
19 ing claims certified by the Commission under section
20 507.”.

1 **TITLE IV—EXCLUSION OF**
2 **CERTAIN ALIENS**

3 **SEC. 401. EXCLUSION FROM THE UNITED STATES OF**
4 **ALIENS WHO HAVE CONFISCATED PROPERTY**
5 **OF UNITED STATES NATIONALS OR WHO**
6 **TRAFFIC IN SUCH PROPERTY.**

7 (a) **GROUND FOR EXCLUSION.**—The Secretary of
8 State, in consultation with the Attorney General, shall ex-
9 clude from the United States any alien who the Secretary
10 of State determines is a person who—

11 (1) has confiscated, or has directed or overseen
12 the confiscation of, property a claim to which is
13 owned by a United States national, or converts or
14 has converted for personal gain confiscated property,
15 a claim to which is owned by a United States na-
16 tional;

17 (2) traffics in confiscated property, a claim to
18 which is owned by a United States national;

19 (3) is a corporate officer, principal, or share-
20 holder with a controlling interest of an entity which
21 has been involved in the confiscation of property or
22 trafficking in confiscated property, a claim to which
23 is owned by a United States national; or

24 (4) is a spouse, minor child, or agent of a per-
25 son excludable under paragraph (1), (2), or (3).

1 (b) DEFINITIONS.—For purposes of this section—

2 (1) CONFISCATED; CONFISCATION.—the terms
3 “confiscated” and “confiscation” refer to—

4 (A) the nationalization, expropriation, or
5 other seizure by foreign governmental authority
6 of ownership or control of property on or after
7 January 1, 1959—

8 (i) without the property having been
9 returned or adequate and effective com-
10 pensation provided; or

11 (ii) without the claim to the property
12 having been settled pursuant to an inter-
13 national claims settlement agreement or
14 other mutually accepted settlement proce-
15 dure; and

16 (B) the repudiation by foreign govern-
17 mental authority of, the default by foreign gov-
18 ernmental authority on, or the failure by for-
19 eign governmental authority to pay, on or after
20 January 1, 1959—

21 (i) a debt of any enterprise which has
22 been nationalized, expropriated, or other-
23 wise taken by foreign governmental author-
24 ity;

1 (ii) a debt which is a charge on prop-
2 erty nationalized, expropriated, or other-
3 wise taken by foreign governmental author-
4 ity; or

5 (iii) a debt which was incurred by for-
6 eign governmental authority in satisfaction
7 or settlement of a confiscated property
8 claim.

9 (2) PROPERTY.—The term “property” does not
10 include claims arising from a territory in dispute as
11 a result of war between United Nations member
12 states in which the ultimate resolution of the dis-
13 puted territory has not been resolved.

14 (2) TRAFFICS.—(A) A person or entity “traf-
15 fics” in property if that person or entity knowingly
16 and intentionally—

17 (i) sells, transfers, distributes, dispenses,
18 brokers, manages, or otherwise disposes of con-
19 fiscated property, or purchases, leases, receives,
20 possesses, obtains control of, manages, uses, or
21 otherwise acquires or holds an interest in con-
22 fiscated property,

23 (ii) engages in a commercial activity using
24 or otherwise benefiting from confiscated prop-
25 erty, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clauses (i) and (ii)) by another person, or otherwise engages in trafficking (as described in clauses (i) and (ii)) through another person, without the authorization of the United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba that are authorized by section 1705(e) of the Cuban Democracy Act of 1992 (22 U.S.C. 6004(e)); or

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national.

(d) NATIONAL INTEREST EXEMPTION.—This section shall not apply where the Secretary of State finds, on a case-by-case basis, that making a determination under subsection (a) would be contrary to the national interest of the United States.

(e) EFFECTIVE DATE.—(1) This section applies to aliens seeking to enter the United States on or after the date of the enactment of this Act.

(2) This section applies only with respect to acts within the meaning of "traffics" that occur on or after

Statement of Hon. Robert Menendez (D-NJ)
House International Relations Committee Markup of H.R. 927,
the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act

June 30, 1995

Mr. Chairman, when this bill gets to the floor of the House, I am confident that a solid bipartisan majority will express its strong sense that it is in the best interests of the United States to tighten sanctions on the thirty-six-year-old tyranny of Cuban dictator Fidel Castro. H.R. 927 is the product of many months of work, and in my case, as the author of one of the bill's titles, over two-and-a-half years.

This legislation strongly endorses the proposition that our policy toward the Cuban dictatorship must address the hard and disturbing realities of Castro's tyranny, not the unwarranted hopes for this dictatorship that some still maintain. It just as strongly rejects the notion that we must formulate policy toward Cuba's dictatorship as if it were not a dictatorship, as if it were a civilized member of the international community.

Fidel Castro don a European suit and sip Chablis with the Mitterands, but that does not make him a civilized man. Mrs. Mitterand may declare that the Cuban dictator "is not a dictator" but that does not mean that she speaks the truth. In reality, Fidel Castro is an uncivilized dictator who runs an uncivilized rogue regime which is an unmitigated failure as a model of governance.

In 1959, Castro promised to rid Cuba of prostitution. But in 1995, the revolution has managed its growth to unprecented levels. In February of this year the Italian magazine, Viaggiare, voted Cuba "the paradise of sexual tourism." Helpless Cuban fathers must suffer the indignity of watching their young teenage daughters leave home at night to prostitute their bodies to Western European and Canadian tourists.

The revolution that in 1959 promised an end to capitalist exploitation in 1995 grants Sherritt, a Canadian mining concern, unlimited rights to dump raw waste from a nickel processing plant into Moa Bay on Cuba's eastern shore. The revolution which has portrayed itself as a model for race relations continues to be run by an exclusive white elite, with few if any possibilities for Afro-Cubans.

The Cuban people have endured 36 years of Castro's political torture, including the use to this day of electroshock therapy on political prisoners and other dissidents, thousands of political executions, and the widespread abuse and thorough denial of the most basic of the human rights of the Cuban people. Throughout my 20 years in public service, I have met too many victims and too many devastated families of victims of Castro's cruelty. Too many

for me to ignore.

My colleagues, Fidel Castro does not respond to suggestions. But he does respond to sanctions. And this is the sanctions bill, no question about it. The very minor changes that the dictatorship has instituted in the last year or so have been a direct result of our policy of sanctions. This is a very important point. Since the fall of the Soviet Union and an end to \$6 billion per year of Soviet subsidies, along with the passage of the Cuban Democracy Act, our sanctions have been working. That is why Castro's number one foreign policy priority is getting our sanctions lifted unconditionally.

With H.R. 927, the Congress recognizes a few things about Cuba under Castro. First, as long as Fidel Castro remains in power, Cuba will not change. Every day, Castro requires more repression and more human rights violations to remain in power. Every day, Fidel Castro -- and not U.S. policy, as some would have it -- makes the situation inside Cuba more unstable.

Fidel Castro could change Cuba this instant. He can call elections today. He could allow alternative political parties to form today. He could release Cuba's political prisoners today. He could recognize private property today. Fidel Castro could make this bill irrelevant today. My colleagues, whatever its impact may be, U.S. policy does not determine Castro's policies toward the Cuban people. Fidel Castro does.

It is certainly in the U.S. national interests to pursue stability in Cuba, but it is most definitely not in our national interests that Castro remain in power. It is not in our national interests that the man who brought the world to the nuclear brink in 1962, build a Soviet-era nuclear plant 90 miles from our shores.

Thirty-six years after he seized power and close to six years after the fall of the Berlin Wall, Castro has moved only to further aggravate Cuba's acute economic crisis and to close shut any political space. After thirty-six years Castro's Cuba remains in a Cold War deep freeze -- and a thaw is not nearing.

The brutal Castro brothers have chosen not to reform their tyrannical rule. Instead, they have chosen to consolidate and sustain their own power rather than provide sustenance to the Cuban people. They have chosen political repression and economic deprivation over basic human freedom and economic opportunity.

With this in mind, nearly two years ago, I suggested that we develop a proactive policy toward the Cuban people; that we prepare today for a change in Cuba tomorrow; that we combine our principled and firm opposition to Cuba's oppressors with a beacon of light for the Cuban people.

With strong bipartisan support, I introduced the "Free and Independent Cuba Assistance Act," which offers broad U.S. and international support first to a transition government and later to a democratic government in Cuba.

As soon as the President certifies that there is a transition government in Cuba, the U.S. would be ready to provide emergency relief and humanitarian assistance, military adjustment, electoral, private sector development and other appropriate assistance to help the Cuban people move from Communist dictatorship and a command economy to democracy and a market economy. Once a democracy is in place, a much broader program of assistance would become available.

I have re-introduced that bill as H.R. 611 with the cosponsorship of a majority of the Members of this Subcommittee and other distinguished senior Members of the full committee. I thank Chairman Burton and you, Mr. Chairman, for incorporating this legislation as Title II of H.R. 927.

We must say clearly to the Cuban people: we are in solidarity with you, but not with those who oppress you and deny you your basic rights. Remove the impediment to our relations and we will assist you in making a reality of your dream of a free and independent Cuba.

We ask the international community and our own media to acknowledge this. We ask them to demonstrate the same commitment this year toward freedom in Cuba that they showed last year toward freedom in Haiti. We ask that they join us in making the commercial embargo on the Cuban dictatorship a coordinated effort among the world's democracies, as this bill seeks..

To the business community, our message is clear. The highest yields await you in a post-Castro Cuba. The greatest risks exist in Castro's Cuba. Despite utterances such as recently found in Time magazine that "Cuba is open for business," we find that in reality Cuba is open for not for business but for exploitation; Cuba is not open for business for the Cuban people but only for foreigners in terms that we would not allow here in the United States.

We ask our colleagues in Congress and counterparts in Parliaments throughout the world to join us in hastening the day when Cuba becomes free, independent, and democratic. Join us in fostering a Cuban government that is a compliment -- and not an eyesore -- to the democratic community of nations of the Western Hemisphere. Join us in helping the Cuban people realize their dream of a free, independent, democratic Cuba.

**REPRESENTATIVE JAY KIM
OPENING STATEMENT ON H.R.927
JUNE 22, 1995**

MR. KIM. Mr. Chairman, without question, Fidel Castro's dictatorship in Cuba is one of the most repressive and bankrupt regimes in the world. For too long, the Cuban people have suffered in misery under Castro's communist terror. Now, with credible reports coming out of Cuba that the Castro dictatorship is facing its toughest challenges yet and may finally falter, I think we should increase the economic pressure on Castro to help expedite his collapse. The pending legislation does just that. I am proud to be a cosponsor of H.R.927, the Cuban Liberty and Democratic Solidarity Act, for three reasons:

First, H.R.927 reaffirms our position under the 1992 Cuban Democracy Act to encourage all foreign nations to join with us in restricting trade and credit relations with Cuba while strengthening international sanctions against the Castro regime. With the fall of the Soviet Union, Cuba's bankrupt communist economic system is no longer being subsidized. A tougher embargo is the appropriate arrow needed to strike at Castro's economic Achilles heel. To those calling for lifting the embargo, I object by asking -- "Why help prop-up Castro and perpetuate the enslavement of the Cuban people?" It is very telling that the vast majority of Cubans who have escaped Castro's terror are supporting this effort to expand and strengthen the embargo even though they are personally well aware of the short-term hardships it could place on their relatives and friends they left behind.

Second, H.R.927 creates a new "right of action" that allows U.S. nationals to sue those who have expropriated their property in Cuba and would deny their entry into the United States. Under Castro's regime, the confiscation of property owned by U.S. citizens and businesses without any compensation has become a standard of Cuban law. Under Castro's leadership, the illegal sale of confiscated property has become a means by which to keep his regime afloat after losing his \$5-6 billion Soviet subsidy. This legislation could help reverse this injustice through a unique but proportionate remedy. It puts would-be investors on notice that if they traffic in stolen property after H.R.927 becomes law they will be held liable to the legitimate U.S. owners in our courts. Since international law does not protect individuals from such illegal confiscations, it is necessary for Congress to unilaterally enact such a provision and provide the protection lacking in International law.

Finally, H.R.927 creates a system to prepare for the inevitable demise of Castro's regime. By ensuring that a mechanism is in place to facilitate Cuba's return to the free world, we can be proactive rather than reactive. H.R.927 gives this Administration, and any in the future, the necessary flexibility to move quickly to facilitate Cuba's transition towards democracy.

For the past 36 years, Americans have stood together in a fully bipartisan manner supporting the restoration of genuine freedom to Cuba. H.R.927 incorporates and builds upon these principles. H.R.927 is a step towards fulfilling the dreams of many -- restoring democracy for all in the Western Hemisphere. In that regard I call on my colleagues to join together, in the same bipartisan manner, as we have done consistently in the past and pass this very important and necessary piece of legislation. Thank you, Mr. Chairman.

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COMMITTEE ON
INTERNATIONAL RELATIONS

SUBCOMMITTEE ON
WESTERN HEMISPHERE

SUBCOMMITTEE ON
INTERNATIONAL ECONOMIC POLICY AND TRADE



JUNE 30, 1995

RE: INTERNATIONAL RELATIONS COMMITTEE MARKUP OF H.R. 927

MR. CHAIRMAN, I HAVE A BRIEF OPENING STATEMENT. THERE IS NOT A MEMBER OF THIS COMMITTEE OR THIS CONGRESS WHO DOESN'T SUPPORT PROMOTING A RAPID, PEACEFUL TRANSITION TO DEMOCRACY IN CUBA. CASTRO, AS WE ALL KNOW, HEADS THE LAST COMMUNIST HOLDOUT IN THE WESTERN HEMISPHERE. HE HAS THOUGHT NOTHING OF SACRIFICING THE WELFARE OF THE CUBAN PEOPLE ON THE ALTAR OF A FAILED AND DISCREDITED IDEOLOGY.

THE CHALLENGE WE FACE TODAY IS WHETHER TO CONTINUE TO CARRY OUT A THREE DECADE OLD TRADE EMBARGO, WHICH HAS ACHIEVED LITTLE BUT TO FURTHER IMPOVERISH AND WEAKEN THE CUBAN PEOPLE, OR TO EMBARK ON A BOLD, NEW POLICY AIMED AT STRENGTHENING THE PRO-DEMOCRACY FORCES IN CUBA.

I BELIEVE THAT THE TIME HAS COME FOR THE UNITED STATES TO REEXAMINE ITS CUBA POLICY. WE SHOULD RECOGNIZE THE EMBARGO FOR WHAT IT IS--A COLD WAR RELIC WHICH SHOULD BE RELEGATED TO THE ASH HEAP OF HISTORY. AT ONE TIME DURING THE HEIGHT OF THE COLD WAR, THE U.S. EMBARGO SERVED A PURPOSE. BUT IN THE WAKE OF THE COLLAPSE OF THE SOVIET UNION AND THE DEMISE OF CASTRO'S PARTNERS IN EASTERN EUROPE, THAT TIME HAS LONG SINCE PASSED.

ALTHOUGH CLEARLY WELL-INTENTIONED, THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT OFFERS THE CUBAN PEOPLE LITTLE HOPE OF OVERCOMING CASTRO'S STRANGLEHOLD OVER THEIR LIVES. LIKE THE PROponents OF THIS MEASURE, I WOULD LIKE TO BELIEVE THAT CASTRO IS ON HIS LAST LEG AND THAT HIS REGIME IS TEETERING PRECARIOUSLY OVER THE ABYSS. BUT I'M AFRAID THAT IT'S GOING TO TAKE MORE THAN A MERE PUSH TO HASTEN CASTRO'S DOWNFALL.

THE MEASURE WE ARE ABOUT TO MARK-UP TODAY WILL NOT, IN MY OPINION, USHER IN THE COLLAPSE OF CASTRO'S DICTATORSHIP. INSTEAD OF TIGHTENING THE EMBARGO, WE SHOULD BE MOVING TOWARDS A FUNDAMENTAL TRANSFORMATION IN U.S.-CUBA RELATIONS. WE SHOULD BE AIMING TO EMPOWER THE CUBAN PEOPLE THROUGH A POLICY OF PROACTIVE ENGAGEMENT RATHER THAN CONTINUING A POLICY OF PARALYSIS AND DESPAIR.

PAGE 2

IT IS CASTRO WHO SHOULD FEAR DIRECT, UNFETTERED CONTACT BETWEEN OUR TWO NATIONS, NOT THE UNITED STATES. THE CUBAN PEOPLE HAVE NOTHING TO FEAR AND EVERYTHING TO GAIN FROM SUCH CONTACT. ONLY CASTRO STANDS TO LOSE FROM A WARMING OF RELATIONS BETWEEN THE CUBAN AND AMERICAN PEOPLE.

MR. CHAIRMAN, POLITICAL, ECONOMIC AND CULTURAL INTERACTION CAN ONLY STRENGTHEN THE FORCES OF FREEDOM AND HASTEN THE DEMISE OF CASTRO'S GOVERNMENT. WE SHOULD KNOW BY NOW THAT UNILATERAL SANCTIONS DO NOT WORK, AT BEST THEY ARE INEFFECTIVE AND AT WORST THEY UNDERMINE OUR INTERESTS ABROAD.

IT IS TIME FOR THE UNITED STATES TO ACKNOWLEDGE THAT ITS POLICY TOWARDS CUBA HAS NOT ACHIEVED THE DESIRED RESULTS. I KNOW WHERE THE VOTES ARE ON THIS MEASURE, BUT I WILL VOTE AGAINST THE BILL AS A MATTER OF PRINCIPLE. I WILL NOT SUPPORT A POLICY THAT REINFORCES THE STATUS QUO WITHOUT PROVIDING THE CUBAN PEOPLE WITH THE MEANS OR THE HOPE OF BREAKING FREE FROM THE SHACKLES OF CASTRO'S OPPRESSION.

**AMENDMENT TO THE
AMENDMENT IN THE NATURE
OF A SUBSTITUTE
OFFERED BY MR. HAMILTON**

On page 56, strike line 15 and all that follows through page 73, line 3 and insert in lieu thereof the following:

1 **SEC. 302. REQUIREMENT FOR SETTLEMENT OF OUTSTANDING**
2 **CLAIMS TO CONFISCATED PROPERTY.**

3 (a) PROHIBITION.---None of the funds authorized to be
4 appropriated by this Act may be provided to a democratically elected
5 government in Cuba unless such government has, within the period
6 specified in subsection (c), either---

7 (1) returned the property of any United States
8 person that was nationalized or expropriated, or
9 property over which ownership or control was seized by
10 any other action of the Government of Cuba (such as
11 the imposition of discriminatory taxes or other
12 exactions), on or after January 1, 1956, in violation of
13 international law;

1 (2) provided adequate and effective compensation
2 for such property in convertible foreign exchange or
3 other mutually acceptable compensation equivalent to
4 the full value thereof, as required by international law;

5 (3) offered a domestic procedure providing
6 prompt, adequate, and effective compensation for such
7 property in accordance with international law; or

8 (4) submitted the dispute to arbitration under the
9 rules of the Convention for the Settlement of Investment
10 Disputes or other mutually agreeable binding
11 international arbitration procedure.

12 (b) OTHER ACTIONS.---If the conditions of subsection (a) have
13 not been met in the time period specified in subsection (c), the
14 President shall instruct the United States Executive Directors of each
15 multilateral development bank and international financial institution
16 to vote against any loan or other utilization of the funds of such bank
17 of institution for the benefit of Cuba unless such assistance is directed
18 specifically to programs which serve the basic human needs of the
19 Cuban people.

20 (c) PERIOD FOR SETTLEMENT OF CLAIMS.---The period of time
21 described in subsection (a) is 3 years after the date of installation of
22 a democratically elected government.

1 (d) RESUMPTION OF ASSISTANCE.---A prohibition or
2 termination of assistance under subsection (a) and an instruction to
3 vote against loans under subsection (b) shall cease to be effective
4 when the President certifies to the appropriate congressional
5 committees that such government has taken one of the steps described
6 in subsection (a).

7 (f) WAIVER.---The President may waive the requirements of
8 subsections (a) and (b) on an annual basis if the President determines
9 and so notifies the appropriate congressional committees that it is in
10 the national interest to do so.

11 (g) DEFINITIONS.---For the purposes of this section, the term
12 "United States person" means a United States citizen or corporation,
13 partnership, or association at least 50 percent beneficially owned by
14 United States citizens.

**AMENDMENT TO THE
AMENDMENT IN THE NATURE
OF A SUBSTITUTE
OFFERED BY MR. HAMILTON**

On page 56, strike line 15 and all that follows through page 73, line 3.

STATEMENT OF DAVID W. WALLACE, CHAIRMAN
JOINT CORPORATE COMMITTEE ON CUBAN CLAIMS

ON S. 381,
THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT OF 1995

SUBMITTED TO

THE SUBCOMMITTEE ON WESTERN HEMISPHERE
AND PEACE CORPS AFFAIRS
THE COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

JUNE 14, 1995

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to submit this statement expressing the views of the Joint Corporate Committee on Cuban Claims with respect to S. 381, the "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995."

The Joint Corporate Committee on Cuban Claims, of which I serve as Chairman, represents more than thirty U.S. corporations with certified claims against the Government of Cuba stemming from the Castro regime's unlawful confiscation of U.S. property without just compensation. Our member corporations hold more than one-half of the \$1.6 billion in outstanding certified corporate claims. Since its formation in 1975, the Committee has vigorously supported the proposition that before our government takes any steps to resume normal trade and diplomatic relations with Cuba, the Government of Cuba must provide adequate compensation for the U.S. properties it unlawfully seized.

Although I am submitting this statement in my capacity as Chairman of the Joint Corporate Committee, I would like to note parenthetically that I also serve as Chairman and Chief Executive Officer of Lone Star Industries, Inc. Lone Star is a certified claim holder whose cement plant at Mariel was seized by the Cuban Government in 1960. Lone Star's claim is valued at \$24.9 million plus 6% interest since the date of seizure.

On behalf of our Committee, I want to commend the significant contribution you have made to the debate on U.S.-Cuba policy by focusing renewed attention on the Castro regime's unlawful expropriation of U.S. property -- an issue that all too often gets lost in the debate over the wisdom of the embargo policy. Recognizing the important role that trade and investment by U.S. businesses will have in Cuba's economic reconstruction and its eventual return to the international community, evidence of concrete steps by the Government of Cuba towards the satisfactory resolution of the property claims issue must be an essential condition for the resumption of economic and diplomatic ties between our nations.

I think it is important to recall the essential reason for which the U.S. Government first imposed a partial trade embargo against Cuba in 1960, followed by the suspension of diplomatic relations in 1961 and the imposition of a total trade embargo in 1962. These actions were taken in direct response to the Castro regime's expropriation of properties held by American citizens and companies without payment of prompt, adequate and effective compensation as required under U.S. and international law. This illegal confiscation of private assets was the largest uncompensated taking of American property in the history of our country, affecting scores of individual companies and investors in Cuban enterprises.

These citizens and companies whose property was confiscated have a legal right recognized in long-established international law to receive adequate compensation or the return of their property. Indeed, Cuba's Constitution of 1940 and even the decrees issued by the Castro regime since it came to power in 1959 recognized the principle of compensation for confiscated properties. Pursuant to Title V of the International Claims Settlement Act, the claims of U.S. citizens and corporations against the Cuban Government have been adjudicated and certified by the Foreign Claims Settlement Commission of the United States. Yet to this day, these certified claims remain unsatisfied.

It is our position that lifting the embargo prior to resolution of the claims issue would be unwise as a matter of policy and damaging to our settlement negotiations posture. First, it would set a bad precedent by signaling a willingness on the part of our nation to tolerate Cuba's failure to abide by precepts of international law. Other foreign nations, consequently, may draw the conclusion that unlawful seizures of property can occur without consequence, thereby leading to future unlawful confiscations of American properties without compensation. Second, lifting the embargo would remove the best leverage we have in compelling the Cuban Government to address the claims of U.S. nationals and would place our negotiators at a terrible disadvantage in seeking just compensation and restitution. We depend on our government to protect the rights of its citizens when they are harmed by the unlawful actions of a foreign agent. The Joint Corporate Committee greatly appreciates the steadfast support our State Department has provided over the years on the claims issue. However, we recognize that the powerful tool of sanctions will be crucial to the Department's ability ultimately to effect a just resolution of this issue.

Apart from the need to redress the legitimate grievances of U.S. claimants, we also should not overlook the contribution these citizens and companies made to the economy of pre-revolutionary Cuba, helping to make it one of the top ranking Latin American countries in terms of living standards and economic growth. Many of these companies and individuals look forward to returning to Cuba to work with its people to help rebuild the nation and invest in its future. As was the case in pre-revolutionary Cuba, the ability of the Cuban Government to attract foreign investment once again will be key to the success of any national policy of economic revitalization.

However, unless and until potential investors can be assured of their right to own property free from the threat of confiscation without compensation, many U.S. companies simply will not be willing to take the risk of doing business with Cuba. It is only by fairly and reasonably addressing the claims issue that the Cuban Government can demonstrate to the satisfaction of the business community its recognition of and respect for property rights.

We are pleased that S. 381 does not waver from the core principle, firmly embodied in U.S. law, which requires the adequate resolution of the certified claims before trade and diplomatic relations between the U.S. and Cuban Governments are normalized. However, we are concerned with provisions of Section 207 of the revised bill that condition the resumption of U.S. assistance to Cuba on the adoption of steps leading to the satisfaction of claims of both the certified claimants and Cuban-American citizens who were not U.S. nationals at the time their property was confiscated. Notwithstanding the modifying provisions which accord priority to the settlement of the certified claims and give the President authority to resume aid upon a showing that the Cuban Government has taken sufficient steps to satisfy the certified claims, this dramatic expansion of the claimant pool, as a practical matter, would necessarily impinge upon the property interests of the certified claimants.

Even though the claimants who were not U.S. nationals at the time of the property loss would not enjoy the espousal rights that the certified claimants enjoy, the recognition of a second tier of claimants by the U.S. Government at a minimum would necessarily color, and likely make more complicated, any settlement negotiations with Cuba to the detriment of the certified claimants.

Moreover, the fact that the legislation gives priority for the settlement of certified property claims is of little consequence within the context of such a vastly expanded pool of claimants that seemingly defies a prompt, adequate and effective settlement of claims. In addition, once this second tier of claimants is recognized, it would be exceedingly difficult politically for the President to exercise his waiver authority. Finally, this dramatic expansion of the claimant pool would serve as a significant disincentive for a post-Castro Cuban Government to enter into meaningful settlement negotiations with the United States given the sheer enormity of the outstanding claims and the practical impossibility of satisfying all those claims.

In short, while we are sympathetic to the position of those individuals and entities who were not U.S. nationals at the time their property was seized, we believe that U.S. Government recognition and representation of this group of claimants -- even falling short of espousal of their claims with a post-Castro government in Cuba -- would harm the interests of the already certified claimants. We believe that the recognition of a second tier of claimants will delay and complicate the settlement of certified claims, and may undermine the prospects for serious settlement negotiations with the Cuban Government.

It is our view, based on well-established principles of international law, that individuals and entities who were Cuban nationals at the time their property was confiscated must seek resolution of their claims in Cuban courts under Cuban law under a future Cuban Government whereby the respective property rights of former and current Cuban nationals may be fairly determined. In taking that position, we categorically reject any notion that a naturalized American has any lesser degree of right than a native-born American. That objectionable and irrelevant notion serves only to cloud the real issue here, and that is simply the question of what rights are pertinent to a non-national as of the date of injury. Simply put, international law does not confer retroactive rights upon naturalized citizens.

Many of the same objections noted above also apply to Section 302 of the revised bill, which allows U.S. nationals, including hundreds of thousands of naturalized Cuban-Americans, to file suit in U.S. courts against persons or entities that traffic in expropriated property. We believe this unrestricted provision also will adversely affect the rights of certified claimants. By effectively moving claims settlement out of the venue of the Foreign Claims Settlement Commission and into the federal judiciary, this provision can be expected to invite hundreds of thousands of commercial and residential property lawsuits. Apart from the enormous, if not overwhelming, burden these lawsuits will place on our courts, this provision raises serious implications with respect to the Cuban Government's ability to satisfy certified claims.

First, allowing Cuba to become liable by way of federal court judgments for monetary damages on a non-dismissible basis necessarily will reduce whatever monetary means Cuba might have to satisfy the certified claims. Second, this expected multiplicity of lawsuits undoubtedly will cloud title to property in Cuba for years, thereby lessening the prospects for restitutionary approaches in satisfaction of some of these claims. Moreover, under this provision, the President would have no power to dismiss these suits as an incident of normalizing relations with a democratically elected government in Cuba once they are commenced. Consequently, the foreign investment that will be crucial to Cuba's successful implementation of market-oriented reforms will be all but precluded by these unresolved legal proceedings.

In conclusion, we want to commend you for your efforts in raising the profile of the property claims issue and focusing attention on the importance of resolving these claims to the full restoration of democracy and free enterprise in Cuba. We also recognize and appreciate the efforts you have made to modify this legislation in response to the concerns expressed by the certified claimant community; however, we hope that you will further consider our continuing concerns regarding the implications of this legislation for the legal rights of certified claimants, an already overburdened court system, the claims settlement process and the orderly disposition of claims, and the post-Castro investment environment.

AMENDMENT OFFERED BY MR. ROTH

Page 39, strike lines 15 through 18. Renumber subsequent provisions accordingly.

Page 41, line 22, strike "shall" and insert "may".

Page 41, lines 24 and 25, strike "Except as provided in clause (ii)," and capitalize "assistance" in line 25.

Page 42, lines 8 and 9, strike "assistance described in subparagraph (C)" and insert the following:

"assistance that the President determines is essential to the successful completion of the transition to democracy."

Page 42, strike lines 10 through 15. In line 16, renumber "(iii)" as "(ii)".

Page 42, line 23, strike "shall" and insert "may".

Page 42, beginning on line 24, strike ", together with assistance described in subparagraph (C)".

Page 43, strike line 20. In line 22, redesignate "(viii)" as "(vii)".

Page 43, strike lines 24 and 25. On page 44, strike lines 1 through 4.

Page 45, line 22, strike "shall" and insert "is authorized to".

Page 46, line 1, strike "shall" and insert "is authorized to".

Page 39, strike lines 19 through 23. Renumber subsequent provisions accordingly.

**AMENDMENT TO THE
AMENDMENT IN THE NATURE
OF A SUBSTITUTE
OFFERED BY MR. TORRICELLI**

On page 26, strike lines 14 through 24 and insert the following:

1 "(2)(A) The President may waive the requirement of
2 paragraph (1) to withhold assistance if the President certifies
3 to the appropriate congressional committees that the provision
4 of such assistance is important to the national security of the
5 United States, and, in the case of such a certification made
6 with respect to Russia, if the President certifies that the
7 Russian Government has assured the United States
8 Government that the Russian Government is not sharing
9 intelligence data collected at the Lourdes facility with officials
10 or agents of the Cuban Government.

11 "(B) At the time of a certification made with respect to
12 Russia pursuant to subparagraph (A) the President shall also
13 submit a report to the appropriate congressional committees
14 describing the intelligence activities in Cuba of such

1 independent state of the former Soviet Union, including, in the
2 case of such a certification made with respect to Russia, the
3 purposes for which the Lourdes facility is used by the
4 Government of Russia and the extent to which the Government
5 of Russia provides payment or government credits to the
6 Government of Cuba for the continued use of the Lourdes
7 facility.

8 "(C) The report required by subparagraph (B) may be
9 submitted in classified form.

10 "(D) For purposes of this paragraph, the term
11 appropriate congressional committees shall include the
12 Permanent Select Committee on Intelligence of the House of
13 Representatives and the Select Committee on Intelligence of
14 the Senate.

15 "(3) The requirement for withholding of assistance
16 pursuant to paragraph (1) shall not apply with respect to---

17 (A) assistance to meet urgent humanitarian needs,
18 including disaster and refugee relief;

19 (B) democratic political reform and rule of law
20 activities;

21 (C) technical assistance for safety upgrades of
22 civilian nuclear power plants;

1 (D) the creation of private sector and
2 nongovernmental organizations that are independent of
3 government control;

4 (E) the development of a free market economic
5 system; and

6 (F) assistance for the purposes described in the
7 Cooperative Threat Reduction Act of 1993 (title XII of
8 Public Law 103-160).".

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 927
OFFERED BY MRS. MEYERS OF KANSAS**

Page 40, lines 2 and 3, strike "there exists a democratically elected government in Cuba" and insert "a transition to a democratically elected government in Cuba has begun".

Page 50, insert the following after line 10:

1 (a) **PRESIDENTIAL ACTIONS.**—Upon submitting a de-
2 termination to the appropriate congressional committees
3 under section 203(c)(1) that a transition government in
4 Cuba is in power, the President, after consulting with the
5 Congress, is authorized to take steps to suspend the eco-
6 nomic embargo of Cuba to the extent that such action con-
7 tributes to a stable foundation for a democratically elected
8 government in Cuba.

9 (b) **SUSPENSION OF CERTAIN PROVISIONS OF**
10 **LAW.**—In carrying out subsection (a), the President may
11 suspend the enforcement of—

12 (1) section 620(a) of the Foreign Assistance
13 Act of 1961 (22 U.S.C. 2370(a));

1 (2) section 620(f) of the Foreign Assistance Act
2 of 1961 (22 U.S.C. 2370(f)) with regard to the "Re-
3 public of Cuba";

4 (3) sections 1704, 1705(d), and 1706 of the
5 Cuban Democracy Act (22 U.S.C. 6003, 6004(d),
6 6005);

7 (4) section 902(c) of the Food Security Act of
8 1985; and

9 (5) the prohibitions on transactions described in
10 part 515 of title 31, Code of Federal Regulations.

Page 50, line 11, strike "(a) PRESIDENTIAL AC-
TIONS.—" and insert "(c) ADDITIONAL PRESIDENTIAL
ACTIONS.—".

Page 50, line 16, strike "(b)" and insert "(d)".

Page 51, insert the following after line 5:

11 (e) REVIEW OF SUSPENSION OF ECONOMIC EMBAR-
12 GO.—

13 (1) REVIEW.—If the President takes action
14 under subsection (a) to suspend the economic em-
15 bargo of Cuba, the President shall immediately so
16 notify the Congress. The President shall report to
17 the Congress no less frequently than every 6 months
18 thereafter, until he submits a determination under
19 section 203(c)(3) that a democratically elected gov-

ernment in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

(2) **JOINT RESOLUTIONS.**—For purposes of this subsection, the term “joint resolution” means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: “That the Congress disapproves the action of the President under section 205(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on ____.”, with the blank space being filled with the appropriate date.

(3) **REFERRAL TO COMMITTEES.**—Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

(4) **PROCEDURES.**—(A) Any joint resolution shall be considered in the Senate in accordance with

4

1 the provisions of section 601(b) of the International
2 Security Assistance and Arms Export Control Act of
3 1976.

4 (B) For the purpose of expediting the consider-
5 ation and enactment of joint resolutions, a motion to
6 proceed to the consideration of any joint resolution
7 after it has been reported by the appropriate com-
8 mittee shall be treated as highly privileged in the
9 House of Representatives.

10 (C) Not more than 1 joint resolution may be
11 considered in the House of Representatives and the
12 Senate in the 6-month period beginning on the date
13 on which the President notifies the Congress under
14 paragraph (1) of the action taken under subsection
15 (a), and in each 6-month period thereafter.

AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 927
OFFERED BY MR. MENENDEZ

Add the following at the end of title I:

1 SEC. 111. WITHHOLDING OF FOREIGN ASSISTANCE TO
2 COUNTRIES SUPPORTING NUCLEAR PLANT
3 IN CUBA.

4 (a) FINDINGS.—The Congress makes the following
5 findings:

6 (1) President Clinton stated in April 1993 that
7 “the United States opposes the construction of the
8 Juragua nuclear power plant because of our con-
9 cerns about Cuba’s ability to ensure the safe oper-
10 ation of the facility and because of Cuba’s refusal to
11 sign the Nuclear Non-Proliferation Treaty or ratify
12 the Treaty of Tlatelolco.”.

13 (2) Cuba has not signed the Treaty on the Non-
14 Proliferation of Nuclear Weapons or ratified the
15 Treaty of Tlatelolco, the latter of which establishes
16 Latin America and the Caribbean as a nuclear weap-
17 ons-free zone.

18 (3) The State Department, the Nuclear Regu-
19 latory Commission, and the Department of Energy

1 have expressed concerns about the construction and
2 operation of Cuba's nuclear reactors.

3 (4) In a September 1992 report to Congress,
4 the General Accounting Office outlined concerns
5 among nuclear energy experts about deficiencies in
6 the nuclear plant project in Juragua, near Cienfue-
7 gos, Cuba, including—

8 (A) a lack in Cuba of a nuclear regulatory
9 structure;

10 (B) the absence in Cuba of an adequate in-
11 frastructure to ensure the plant's safe operation
12 and requisite maintenance;

13 (C) the inadequacy of training of plant op-
14 erators;

15 (D) reports by a former technician from
16 Cuba who, by examining with x-rays weld sites
17 believed to be part of the auxiliary plumbing
18 system for the plant, found that 10 to 15 per-
19 cent of those sites were defective;

20 (E) since September 5, 1992, when con-
21 struction on the plant was halted, the prolonged
22 exposure to the elements, including corrosive
23 salt water vapor, of the primary reactor compo-
24 nents; and

1 (F) the possible inadequacy of the upper
2 portion of the reactors' dome retention capabil-
3 ity to withstand only 7 pounds of pressure per
4 square inch, given that normal atmospheric
5 pressure is 32 pounds per square inch and
6 United States reactors are designed to accom-
7 modate pressures of 50 pounds per square inch.

8 (5) The United States Geological Survey claims
9 that it had difficulty determining answers to specific
10 questions regarding earthquake activity in the area
11 near Cienfuegos because the Cuban government was
12 not forthcoming with information.

13 (6) The Geological Survey has indicated that
14 the Caribbean plate, a geological formation near the
15 south coast of Cuba, may pose seismic risks to Cuba
16 and the site of the power plant, and may produce
17 large to moderate earthquakes.

18 (7) On May 25, 1992, the Caribbean plate pro-
19 duced an earthquake numbering 7.0 on the Richter
20 scale.

21 (8) According to a study by the National Oce-
22 anic and Atmospheric Administration, summer
23 winds could carry radioactive pollutants from a nu-
24 clear accident at the power plant throughout all of
25 Florida and parts of the States on the gulf coast as

1 far as Texas, and northern winds could carry the
2 pollutants as far northeast as Virginia and Washing-
3 ton, D.C.

4 (9) The Cuban government, under dictator
5 Fidel Castro, in 1962 advocated the Soviets' launch-
6 ing of nuclear missiles to the United States, which
7 represented a direct and dangerous provocation of
8 the United States and brought the world to the
9 brink of a nuclear conflict.

10 (10) Fidel Castro over the years has consist-
11 ently issued threats against the United States Gov-
12 ernment, most recently that he would unleash an-
13 other perilous mass migration from Cuba upon the
14 enactment of this Act.

15 (11) Despite the various concerns about the
16 plant's safety and operational problems, a feasibility
17 study is being conducted that would establish a sup-
18 port group to include Russia, Cuba, and third coun-
19 tries with the objective of completing and operating
20 the plant.

21 (b) WITHHOLDING OF FOREIGN ASSISTANCE.—

22 (1) IN GENERAL.—Notwithstanding any other
23 provision of law, the President shall withhold from
24 assistance allocated, on or after the date of the en-
25 actment of this Act, for any country an amount

1 equal to the sum of assistance and credits, if any,
2 provided on or after such date of enactment by that
3 country or any entity in that country in support of
4 the completion of the Cuban nuclear facility at
5 Juragua, near Cienfuegos, Cuba.

6 (2) DEFINITION.—As used in paragraph (1),
7 the term "assistance" means assistance under the
8 Foreign Assistance Act of 1961, credits, sales, and
9 guarantees of extensions of credit under the Arms
10 Export Control Act, assistance under titles I and III
11 of the Agricultural Trade Development and Assist-
12 ance Act of 1954, assistance under the FREEDOM
13 Support Act of 1992, and any other program of as-
14 sistance or credits provided by the United States to
15 other countries under other provisions of law, except
16 that the term "assistance" does not include humani-
17 tarian assistance, including disaster relief assistance.

AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 927
OFFERED BY MR. MENENDEZ

Add the following at the end of title I:

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5 among nuclear energy experts about deficiencies in
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9 structure;

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11 frastructure to ensure the plant's safe operation
12 and requisite maintenance;

13 (C) the inadequacy of training of plant op-
14 erators;

15 (D) reports by a former technician from
16 Cuba who, by examining with x-rays weld sites
17 believed to be part of the auxiliary plumbing
18 system for the plant, found that 10 to 15 per-
19 cent of those sites were defective;

20 (E) since September 5, 1992, when con-
21 struction on the plant was halted, the prolonged
22 exposure to the elements, including corrosive
23 salt water vapor, of the primary reactor compo-
24 nents; and

1 (F) the possible inadequacy of the upper
2 portion of the reactors' dome retention capabil-
3 ity to withstand only 7 pounds of pressure per
4 square inch, given that normal atmospheric
5 pressure is 32 pounds per square inch and
6 United States reactors are designed to accom-
7 modate pressures of 50 pounds per square inch.

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10 questions regarding earthquake activity in the area
11 near Cienfuegos because the Cuban government was
12 not forthcoming with information.

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14 the Caribbean plate, a geological formation near the
15 south coast of Cuba, may pose seismic risks to Cuba
16 and the site of the power plant, and may produce
17 large to moderate earthquakes.

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23 winds could carry radioactive pollutants from a nu-
24 clear accident at the power plant throughout all of
25 Florida and parts of the States on the gulf coast as

1 far as Texas, and northern winds could carry the
2 pollutants as far northeast as Virginia and Washing-
3 ton, D.C.

4 (9) The Cuban government, under dictator
5 Fidel Castro, in 1962 advocated the Soviets' launch-
6 ing of nuclear missiles to the United States, which
7 represented a direct and dangerous provocation of
8 the United States and brought the world to the
9 brink of a nuclear conflict.

10 (10) Fidel Castro over the years has consist-
11 ently issued threats against the United States Gov-
12 ernment, most recently that he would unleash an-
13 other perilous mass migration from Cuba upon the
14 enactment of this Act.

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22 (1) IN GENERAL.—Notwithstanding any other
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1 equal to the sum of assistance and credits, if any,
2 provided on or after such date of enactment by that
3 country or any entity in that country in support of
4 the completion of the Cuban nuclear facility at
5 Juragua, near Cienfuegos, Cuba.

(2) The requirement for withholding of assistance pursuant to paragraph (1) shall not apply with respect to---

(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

(B) democratic political reform and rule of law activities;

(C) the creation of private sector and nongovernmental organizations that are independent of government control;

(D) the development of a free market economic system; and

(E) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160).".

(6)

(3)

6 (A) DEFINITION.—As used in paragraph (1),
 7 the term "assistance" means assistance under the
 8 Foreign Assistance Act of 1961, credits, sales, and
 9 guarantees of extensions of credit under the Arms
 10 Export Control Act, assistance under titles I and III
 11 of the Agricultural Trade Development and Assist-
 12 ance Act of 1954, assistance under the FREEDOM
 13 Support Act of 1992, and any other program of as-
 14 sistance or credits provided by the United States to
 15 other countries under other provisions of law, except
 16 that the term "assistance" does not include humani-
 17 tarian assistance, including disaster relief assistance.

Mr. Funderburk

AMENDMENT TO BE OFFERED BY REP. CASS BALLINGER

Page 52, line 12, strike "2 years" and insert "1 year".

AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 927
OFFERED BY MR. BERMAN

(Page & line nos. refer to Committee Print of 6/22/95)

Page 18, strike lines 9 through 11 and insert the following:

1 “(3) The penalties provided under this subsection
2 may not be imposed for—

3 “(A) news gathering, research, or the export or
4 import of, or transmission of, information or infor-
5 mational materials; or

6 “(B) clearly defined educational or religious ac-
7 tivities, or activities of recognized human rights or-
8 ganizations, that are reasonably limited in fre-
9 quency, duration, and number of participants.

10 “(4) The penalties provided under this subsection
11 may be imposed only on the record after opportunity for
12 an agency hearing in accordance with sections 554
13 through 557 of title 5, United States Code, with the right
14 to prehearing discovery.

15 “(5) Judicial review of any penalty imposed under
16 this subsection may be had to the extent provided in sec-
17 tion 702 of title 5, United States Code.”.

**AMENDMENT TO THE
AMENDMENT IN THE NATURE
OF A SUBSTITUTE
OFFERED BY MR. WYNN**

On page 20, strike line 21 and all that follows through page 21, line 25 and insert in lieu thereof the following:

1 "(a) OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL
2 FINANCIAL INSTITUTIONS.---(1) Until such time as the President
3 determines that a transition government in Cuba is in power, the
4 Secretary of the Treasury should instruct the United States executive
5 director to each international financial institution to use the voice and
6 vote of the United States to oppose the admission of Cuba as a
7 member of such institution.
8 "(2) Once a transition government in Cuba is in power, the
9 President is encouraged to take steps to support the processing of
10 Cuba's application for membership in any financial institution subject
11 to the membership taking effect at such time as the President deems
12 most likely to facilitate the transition to a democratically-elected
13 government in Cuba."

On page 22, line 1, strike "(c)" and insert in lieu thereof "(b)".

**AMENDMENT TO THE
AMENDMENT IN THE NATURE
OF A SUBSTITUTE
OFFERED BY MR. MORAN**

On page 12, beginning on line 13, strike "to have met the requirements of" and insert in lieu thereof "as being democratically elected, taking into account the factors listed in".

On page 15, beginning on line 12, strike "to have met the requirements of" and insert in lieu thereof "as being a transition government, taking into account the factors listed in".

On page 37, strike line 7 and all that follows through page 55, line 10 and insert in lieu thereof the following:

1 **TITLE II---ASSISTANCE TO A**
 2 **FREE AND INDEPENDENT CUBA**
 3 **SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT AND A**
 4 **DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA**
 5 It shall be the policy of the United States:
 6 (1) To support the self-determination of the Cuban
 7 people.

1 (2) To recognize that the self-determination of the
2 Cuban people is a sovereign and national right of the citizens
3 of Cuba which must be exercised free of interference by the
4 government of any other country.

5 (3) To encourage the Cuban people to empower
6 themselves with a government which reflects the self-
7 determination of the Cuban people.

8 (4) To recognize the potential for a difficult transition
9 from the current regime in Cuba that may result from the
10 initiatives taken by the Cuban people for self-determination in
11 response to the intransigence of the Castro regime in not
12 allowing any substantive political or economic reforms, and to
13 be prepared to provide the Cuban people with humanitarian,
14 developmental, and other economic assistance.

15 (5) In solidarity with the Cuban people, to provide
16 appropriate forms of assistance---

17 (A) for Cuba under a transition government;

18 (B) to facilitate the rapid movement from such a
19 transition government to a democratically elected
20 government in Cuba that results from an expression of
21 the self-determination of the Cuban people; and

22 (C) to provide support to Cuba under a

1 democratically elected government.

2 (6) Through such assistance, to facilitate a peaceful
3 transition to representative democracy and a market economy
4 in Cuba and to consolidate democracy in Cuba.

5 (7) To deliver such assistance through a transition
6 government in Cuba, through a democratically elected
7 government in Cuba, through United States Government
8 organizations, or through United States, international, or
9 indigenous nongovernmental organizations.

10 (8) To encourage other countries and multilateral
11 organizations to provide similar assistance, and to work
12 cooperatively with such countries and organizations to
13 coordinate such assistance.

14 (9) To ensure that appropriate assistance is rapidly
15 provided to Cuba upon the institution of a transition
16 government in Cuba.

17 (10) Not to provide favorable treatment or influence on
18 behalf of any individual or entity in the selection by the Cuban
19 people of their future government.

20 (11) To assist a transition government in Cuba and a
21 democratically elected government in Cuba to prepare the
22 Cuban military forces for an appropriate role in a democracy.

1 (12) To be prepared to enter into negotiations with a
2 democratically elected government in Cuba either to return the
3 United States Naval Base at Guantanamo to Cuba or to
4 renegotiate the present agreement under mutually acceptable
5 terms.

6 (13) To consider the restoration of diplomatic
7 recognition and support the reintegration of the Cuban
8 government into Inter-American organizations when the
9 President determines that there exists a democratically elected
10 government in Cuba.

11 (14) To be prepared to modify the economic embargo
12 against Cuba in carefully calibrated ways in response to
13 positive developments in Cuba, and to take steps to end the
14 economic embargo when the President determines there exists
15 a democratically elected government in Cuba.

16 (15) To assist a transition government in Cuba, or a
17 democratically elected government in Cuba, to strengthen and
18 stabilize its national currency.

19 (16) To pursue the extension of appropriate trade
20 arrangements to a free, democratic, and independent Cuba.

21 **SEC. 202. AUTHORIZATION OF ASSISTANCE FOR THE CUBAN**
22 **PEOPLE.**

1 (a) AUTHORIZATION.---

2 (1) IN GENERAL.---The President shall develop a plan
3 for providing economic assistance to Cuba at such time as the
4 President determines that a transition government or a
5 democratically elected government (as determined under
6 section 203(c)) is in power in Cuba.

7 (2) AUTHORIZATION.---Subject to section 203(c), the
8 President is authorized to provide such forms of assistance for
9 Cuba under a transition government as are specified in
10 subsections (b)(1)(A) and (b)(3) and to provide such forms of
11 assistance and related programs for Cuba under a
12 democratically elected government as are specified in
13 subsections (b)(2) and (b)(3), notwithstanding any other
14 provision of law, except for---

15 (A) this Act;

16 (B) section 620(a)(2) of the Foreign Assistance
17 Act of 1961 (22 U.S.C. 2370(a)(2)); and

18 (C) section 634A of the Foreign Assistance Act
19 of 1961 (22 U.S.C. 2394-1) and comparable notification
20 requirements contained in any Act making
21 appropriations for foreign operations, export financing,
22 and related programs.

1 (b) TYPES OF ASSISTANCE AND RELATED PROGRAMS.---

2 (1) TRANSITIONAL GOVERNMENT.---(A) Assistance
3 under this section for Cuba under a transitional government
4 may include only the following---

5 (i) Such food, medicine, medical supplies and
6 equipment, and assistance to meet emergency
7 humanitarian needs, as may be necessary to meet the
8 basic human needs of the Cuban people;

9 (ii) assistance described in paragraph (3); and

10 (iii) assistance for activities comparable to those
11 described in section 498 of the Foreign Assistance Act
12 of 1961 (22 U.S.C. 2295), other than paragraph 9 of
13 such section.

14 (B) When a transition government in Cuba is in power,
15 the President is encouraged to remove or modify restrictions
16 that may exist on remittances by individuals to their close
17 relatives of cash or humanitarian items, as well as on
18 transactions incident to travel to visit such relatives.

19 (2) DEMOCRATICALLY ELECTED GOVERNMENT.---
20 Assistance and related programs for Cuba under a
21 democratically elected government in Cuba may include, in
22 addition to assistance that may be included under paragraph

1 (1)(A) for Cuba under a transitional government, the
2 following:

3 (A) assistance under chapter 1 of part I (relating
4 to development assistance), and chapter 4 of part II
5 (relating to the economic support fund), of the Foreign
6 Assistance Act of 1961;

7 (B) assistance under chapter 8 of part I (relating
8 to narcotics control assistance) of the Foreign Assistance
9 Act of 1961;

10 (C) assistance under the Agricultural Trade
11 Development and Assistance Act of 1954;

12 (D) financing, guarantees, and other programs of
13 the Export-Import Bank of the United States;

14 (E) financial support provided by the Overseas
15 Private Investment Corporation for investment projects
16 in Cuba;

17 (F) assistance provided by the Trade and
18 Development Agency;

19 (G) Peace Corps programs;

20 (H) relief of Cuba's external debt; and

21 (I) other appropriate assistance to carry out the
22 policies set forth in section 201.

1 (3) MILITARY ADJUSTMENT ASSISTANCE.---Assistance to
2 a transition government in Cuba and to a democratically
3 elected government in Cuba may also include assistance in
4 preparing the Cuban military and security forces to adjust to
5 an appropriate role in a democracy.

6 (c) DISTRIBUTION OF ASSISTANCE.---Assistance authorized to
7 be provided under this section may be provided through United States
8 Government organizations and nongovernmental organizations and
9 private and voluntary organizations, whether within or outside the
10 United States, including humanitarian, educational, labor, and private
11 sector organizations.

12 (d) PLANS FOR ASSISTANCE.---

13 (1) DEVELOPMENT OF PLANS.---The President shall
14 develop plans for providing assistance under this section for
15 Cuba---

16 (A) when a transition government in Cuba is in
17 power; and

18 (B) when a democratically elected government in
19 Cuba is in power.

20 (2) STRATEGY FOR DISTRIBUTION.---The plans
21 developed under paragraph (1) shall include a strategy for
22 distributing assistance under the plans.

1 (3) SUBMISSION OF PLANS.---(A) The President shall
2 develop and submit the plans required by paragraph (1) to the
3 appropriate congressional committees within 180 days of the
4 enactment of this Act. Plans submitted pursuant to this
5 paragraph may be interim plans for providing assistance under
6 this section.

7 (B) Assistance under this section may not be provided
8 until after the plans required by paragraph (1) have been
9 submitted

10 (C) Subparagraph (B) shall not apply if the President
11 determines that there has been a fundamental change in
12 government in Cuba prior to the submission of the plans
13 required by paragraph (1).

14 (e) INTERNATIONAL EFFORTS.---The President shall take the
15 necessary steps---

16 (1) to seek to obtain the agreement of other countries
17 and of international financial institutions and multilateral
18 organizations to provide assistance for a Cuba under a
19 transition government, or under a democratically elected
20 government, comparable to that provided by the United States
21 under this Act; and

22 (2) to work with such countries, institutions, and

1 organizations to coordinate all assistance programs.

2 (f) CARIBBEAN BASIN INITIATIVE.---(1) Notwithstanding any
3 other provision of law, the President may determine, at an
4 appropriate time after determining pursuant to section 203(c)(1) that
5 a transition government in Cuba is in power, whether to designate
6 Cuba as a beneficiary country under section 212 of the Caribbean
7 Basin Economic Recovery Act (22 U.S.C. 2702).

8 (2) The table contained in section 212(b) of that Act (22
9 U.S.C. 2702(b) is amended by inserting "Cuba" between "Costa
10 Rica" and "Dominica".

11 (g) TRADE AGREEMENTS.---The President, upon transmittal to
12 Congress of a determination under section 203(c)(3) that a
13 democratically elected government in Cuba is in power---

14 (1) is authorized to take the necessary steps to extend
15 non-discriminatory trade treatment (most-favored nation status)
16 to the products of Cuba; and

17 (2) should take such other steps as are necessary to
18 encourage renewed investment in Cuba.

19 (h) COMMUNICATION WITH THE CUBAN PEOPLE.---The
20 President should take the necessary steps to communicate to the
21 Cuban people the plans for assistance developed under this section.

22 **SEC. 203. COORDINATION OF ASSISTANCE PROGRAM;**

1 IMPLEMENTATION AND REPORTS TO CONGRESS;
2 REPROGRAMMING.

3 (a) COORDINATING OFFICIAL.---The President shall designate
4 a coordinating official who shall be responsible for---

5 (1) implementing the strategy for distributing assistance
6 authorized pursuant to section 202;

7 (2) ensuring the speedy and efficient distribution of such
8 assistance; and

9 (3) ensuring coordination among, and appropriate
10 oversight by, the agencies of the United States Government
11 that provide assistance authorized pursuant to section 202,
12 including resolving any disputes among such agencies.

13 (b) UNITED STATES-CUBA COUNCIL.---Upon making a
14 determination under subsection (c)(3) that a democratically elected
15 government is in power in Cuba, the President, after consultation
16 with the coordinating official, is authorized to designate a United
17 States-Cuba council---

18 (1) to ensure coordination between the United States
19 Government and the private sector in responding to change in
20 Cuba, and in promoting market-based development in Cuba;
21 and

22 (2) to establish periodic meetings between

1 representatives of the United States and Cuban private sectors
2 for the purpose of facilitating bilateral trade.

3 (c) IMPLEMENTATION OF PLAN; REPORTS TO CONGRESS.---

4 (1) IMPLEMENTATION WITH RESPECT TO TRANSITION
5 GOVERNMENT.---Upon making a determination that a transition
6 government is in power, the President shall transmit such
7 determination to the appropriate congressional committees and
8 shall thereafter be authorized to provide such forms of
9 assistance for Cuba as are specified in sections 202(b)(1)(A)
10 and 202(b)(3).

11 (2) REPORTS TO CONGRESS.---(A) The President shall
12 transmit to the appropriate congressional committees a report
13 setting forth the updated strategy for providing assistance for
14 Cuba under a transition government authorized under section
15 202, the types of such assistance, and the extent to which such
16 assistance has been distributed.

17 (B) The President shall transmit such report not later
18 than 90 days after making the determination referred to in
19 paragraph (1), except that the President shall transmit such
20 report in preliminary form not later than 15 days after making
21 such determination.

22 (3) IMPLEMENTATION WITH RESPECT TO

1 DEMOCRATICALLY ELECTED GOVERNMENT.---Upon making a
2 determination that a democratically elected government in
3 Cuba is in power, the President shall transmit such
4 determination to the appropriate congressional committees and
5 shall thereafter be authorized to provide such forms of
6 assistance for and cooperation with Cuba as are specified in
7 sections 202(b)(2) and 202(b)(3).

8 (4) ANNUAL REPORTS TO CONGRESS.---Once the
9 President has transmitted a determination referred to in either
10 paragraph (1) or paragraph (3), the President shall, at the time
11 of submission of the report required by section 634(a) of the
12 Foreign Assistance Act of 1961 (22 U.S.C. 2394(a)), transmit
13 to the appropriate congressional committees an annual report
14 on assistance for Cuba provided under section 202, including
15 a description of each type of assistance, the amounts expended
16 for such assistance, a description of how such assistance has
17 furthered the objectives of promoting the establishment of
18 democracy and a free market economic system in Cuba, and
19 a description of the assistance to be provided in the current
20 fiscal year.

21 **SEC. 204. AUTHORIZATIONS OF APPROPRIATIONS.**

22 There are authorized to appropriate to the President such sums

1 as may be necessary to carry out the purposes of this title. SEC.

2 **205 TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.**

3 (a) PRESIDENTIAL ACTIONS.---(1) Upon submitting a
4 determination to the appropriate congressional committees under
5 section 203(c)(1) that a transition government in Cuba is in power,
6 the President is encouraged to take steps to modify the economic
7 embargo against Cuba in carefully calibrated ways in response to
8 positive developments in Cuba.

9 (2) Upon submitting a determination to the appropriate
10 congressional committees under section 203(c)(3) that a
11 democratically elected government in Cuba is in power, the President
12 shall take steps to terminate the economic embargo of Cuba.

13 (b) CONFORMING AMENDMENTS.---On the date on which the
14 President submits a determination under section 203(c)(3)---

15 (1) section 620(a) of the Foreign Assistance Act of 1961
16 (22 U.S.C. 2370(a)) is repealed;

17 (2) section 620(f) of such Act (22 U.S.C. 2370(f)) is
18 amended by striking "Republic of Cuba";

19 (3) sections 1705(d), 1705(e)(3), and 1706 of the Cuban
20 Democracy Act (22 U.S.C. 6004(d), 22 U.S.C. 6004(e)(3),
21 and 22 U.S.C. 6005) are repealed;

22 (4) section 1705(e) of the Cuban Democracy Act (22

1 U.S.C. 6004(e)) is redesignated as section 1705(d);
2 (5) section 1705(d)(4), as redesignated, is redesignated
3 as section 1705(d)(3); and
4 (6) section 902(c) of the Food Security Act of 1985 (7
5 U.S.C. 1446 note) is repealed.

6 **SEC. 206. FACTORS TO BE CONSIDERED IN DETERMINING**
7 **WHETHER A TRANSITION GOVERNMENT IS IN POWER**
8 **IN CUBA.**

9 For purposes of making the determination under section
10 203(c)(1), the President shall take into account the extent to which
11 such government---

12 (1) is demonstrably in transition from communist
13 totalitarian dictatorship to representative democracy;

14 (2) has recognized the right to independent political
15 activity and association;

16 (3) has released all political prisoners and allowed for
17 investigations of Cuban prisons by appropriate international
18 human rights organizations;

19 (4) has ceased interference with Radio or Television
20 Marti broadcasts;

21 (5) makes public commitments to and is making
22 demonstrable progress in---

1 (A) establishing an independent judiciary and
2 otherwise increasing respect for and adherence to the
3 rule of law;

4 (B) rendering to the United States individuals
5 under indictment in United States Federal, district, or
6 State courts, or in the courts of any territory or
7 possession of the United States;

8 (B) dissolving the present Department of State
9 Security in the Cuban Ministry of the Interior, including
10 the Committees for the Defense of the Revolution and
11 the Rapid Response Brigades;

12 (C) respecting international recognized human
13 rights and basic freedoms as set forth in the Universal
14 Declaration of Human Rights;

15 (D) effectively guaranteeing the rights of free
16 speech and freedom of the press;

17 (E) organizing free and fair elections for a new
18 government---

19 (i) to be held in a timely manner within a
20 period not to exceed 2 years after the transition
21 government assumes power;

22 (ii) with the participation of multiple

1 independent political parties that have full access
2 to the media on an equal basis, including (in the
3 case of radio, television, or other
4 telecommunications media) in terms of allotments
5 of time for such access and the times of day such
6 allotments are given; and

7 (iii) to be conducted under the supervision
8 of internationally recognized observers, such as
9 the Organization of American States, the United
10 Nations, or other election monitors;

11 (F) assuring the right to private property;

12 (G) taking appropriate steps to return to United
13 States nationals confiscated property or to provide
14 compensation in accordance with international law and
15 practice;

16 (H) granting permits to privately owned
17 telecommunications and media companies to operate in
18 Cuba; and

19 (I) allowing the establishment of independent
20 trade unions as set forth in conventions 87 and 98 of the
21 International Labor Organization, and allowing the
22 establishment of independent social, economic, and

1 political associations;

2 (6) does not include Fidel Castro or Raul Castro;

3 (7) has given adequate assurances that it will allow the
4 speedy and efficient distribution of assistance to the Cuban
5 people; and

6 (8) permits the deployment throughout Cuba of
7 independent and unfettered international human rights
8 monitors.

9 **SEC. 207. FACTORS TO BE CONSIDERED IN DETERMINING**
10 **WHETHER A DEMOCRATICALLY ELECTED**
11 **GOVERNMENT IS IN POWER IN CUBA**

12 For purposes of making the determination under section
13 203(c)(3), the President shall take into account the extent to which
14 such government---

15 (1) results from free and fair elections conducted under
16 the supervision of internationally recognized observers;

17 (2) has permitted opposition parties ample time to
18 organize and campaign for such elections, and has permitted
19 full access to the media to all candidates in the elections;

20 (3) is showing respect for the basic civil liberties and
21 human rights of the citizens of Cuba;

22 (4) has made demonstrable progress in establishing an

1 independent judiciary and otherwise increasing respect for and
2 adherence to the rule of law;

3 (5) is substantially moving toward a market-oriented
4 economic system;

5 (6) is committed to making constitutional changes that
6 would ensure regular free and fair elections that meet the
7 requirements of paragraph (2); and

8 (7) has made demonstrable progress in returning to
9 United States nationals confiscated property or providing
10 compensation in accordance with international law and
11 practice.

**AMENDMENT TO THE
AMENDMENT IN THE NATURE
OF A SUBSTITUTE
OFFERED BY MR. TORRICELLI**

Add the following at the end of title I:

SEC. 111. EXPULSION OF CRIMINALS FROM CUBA.

The President shall instruct all United States Government officials who engage in official conduct with the Cuban government to raise on a regular basis the extradition of or rendering to the United States all persons residing in Cuba who are sought by the United States Department of Justice for crimes committed in the United States.

**AMENDMENT TO THE
AMENDMENT IN THE NATURE
OF A SUBSTITUTE
OFFERED BY MR. TORRICELLI**

In section 206---

- (1) strike "and" at the end of paragraph (7);
- (2) strike the period at the end of paragraph (8) and insert "; and"; and
- (3) insert after paragraph (8) the following:

"(9) has extradited or otherwise rendered to the United States all persons sought by the United States Department of Justice for crimes committed in the United States."



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